THE MINES AND MINERALS ACT

CHAPTER 213 OF THE LAWS OF ZAMBIA

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MINING RIGHTS AND SURFACE RIGHTS

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ARTISANAL MINING

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ROYALTIES AND CHARGES

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2. (1) In this Act, unless the context otherwise requires—

"access agreement" means an agreement entered into between the holder of a mining right and any owner or occupier of land over which the right subsists, for the regulation of prospecting, mining or other activities authorised by the mining right to be carried on upon the land;

"artisan's mining right" means an artisan's mining right granted under Part VII;

"building minerals" means minerals and rocks commonly used for building, road making or agricultural purposes and includes sand, clay, gravel, laterite, limestone, granite, phyllite and any other rock when so used;

"development agreement" means an agreement entered into under section nine in relation to a large-scale mining licence;

"Director" means the Director of Mines appointed under section eighty-three;

"gemstone licence" means a gemstone licence granted under Part IV;

"gemstone sales certificate" means a gemstone sales certificate granted under Part XIII;

"gemstones" means amethyst, aquamarine, beryl, corundum, diamond, emerald, garnet, ruby, sapphire, topaz, tourmaline and any other non-metallic mineral substance, being a substance used in the manufacture of jewellery, that the Minister, by statutory instrument, declares to be a gemstone for the purposes of this Act;

"holder" means the person in whose name a mining right is registered;

"large-scale mining licence" means a large-scale mining licence granted under Part III;

"local office", means an office of the Ministry established for any area;

"mine" means any place, pit, shaft, drive, level or other excavation, and any drift, gutter, lead, vein, lode, reef, saltpan or working, in or on or by means of which any operation connected with mining is carried on, together with all buildings, premises, erections and appliances, whether above or below the ground, that are used in connection with any such operation or for the extraction, treatment or preparation of any mineral or for the purpose of dressing mineral ores;
"mineral" means any material substance, whether in solid, liquid, or gaseous form, that occurs naturally in or beneath the surface of the earth, but does not include water, petroleum or any substance or thing prescribed by the Minister by regulation;

"mining" means the extraction of material, whether solid, liquid or gaseous from land or from beneath the surface of the earth in order to win minerals, and includes any operations directly or indirectly necessary or incidental thereto;

"Mining Advisory Committee" means the Mining Advisory Committee established by section eighty-eight;

"mining area" means an area of land subject to a licence or permit under this Act or an interim licence held under the Fourth Schedule that confers rights similar to the rights conferred by such a licence or permit;

"mining operations" means operations carried out in the course of mining;

"mining plant" means any building, plant, machinery equipment, tools or other property that has been used for mining, whether or not affixed to land, but does not include any timber or other material used or applied in the construction or support of any shaft, drive, gallery, terrace, race, dam or other work;

"mining right" means a licence or permit, or an artisan's mining right, granted under this Act or any interim licence held under the Fourth Schedule;

"petroleum" has the meaning ascribed to it in the Petroleum Act but does not include coal or oil shale;

"preliminary investigation rights" means rights granted under the proviso to subsection (1) of section five;

"prospect" means to search for any mineral by any means and to carry out such works, and remove such samples, as may be necessary to test the mineral-bearing qualities of any land;

"prospecting area" means an area of land subject to a prospecting licence, a prospecting permit or an interim licence held under the Fourth Schedule that confers prospecting rights;

"prospecting licence" means a prospecting licence granted under Part III;

"prospecting operations" means operations carried out in the course of prospecting;
"prospecting permit" means a prospecting permit granted under Part IV;

"retention licence" means a retention licence granted under Part IV;

"royalty" means royalty chargeable under Parts III and VIII on the produce of a large-scale mining licence;

"small-scale mining licence" means a small-scale mining licence granted under Part IV;

(2) A reference, in any provision of this Act, to an authorised officer is a reference to a public officer, designated under section eight-three, who is duly authorised to exercise and perform the powers and functions conferred or imposed by that provision on an authorised officer.

(3) A reference in this Act to land subject to a mining right is a reference to an area of land in respect of which a mining right has been granted and subsists.

3. (1) All rights of ownership in, searching for, and mining and disposing of, minerals are hereby vested in the President on behalf of the Republic.

(2) The provisions of this section have effect notwithstanding any right, title or interest which any person may possess in or over the soil in, on or under which minerals are found.

PART II MINING RIGHTS GENERALLY

MINING RIGHTS GENERALLY

4. Subject to the other provisions of this Act, rights of prospecting for, mining and disposing of, minerals may be acquired and held under and in accordance with this Act.

5. (1) A person shall not prospect for minerals or carry on mining operations except under the authority of a mining right granted under this Act:

Provided that the Director may, for a period not exceeding ninety days, grant in writing, subject to such conditions (including conditions relating to work and expenditure), as the director may impose, the right to enter any area that is not subject to a mining right, or undertake an aerial survey, for the purpose of reconnaissance operations for the location of minerals by geophysical, geochemical and photogeological survey or by the study of surface geology.
(2) A right granted by the Director under the proviso to subsection (1) shall not confer on the holder exclusive rights over the area to which it relates or any preference or priority in respect of an application for a prospecting licence over any such area.

(3) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction-

(a) in the case of an individual, to a fine not exceeding fifty thousand penalty units or imprisonment for a term not exceeding two years, or to both; or

(b) in the case of a body corporate, to a fine not exceeding five hundred thousand penalty units.

6. The following mining rights may be granted under this Act:

(a) a prospecting licence;
(b) a retention licence;
(c) a large-scale mining licence;
(d) a prospecting permit;
(e) a small-scale mining licence;
(f) a gemstone licence;
(g) an artisan’s mining right.

7. (1) A mining right shall not be granted except to an individual or a company.

(2) A mining right shall not be granted to or held by-

(a) an individual who-
   (i) is under the age of eighteen years;
   (ii) is or becomes an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any written law, or enters into any agreement or scheme of composition with his creditors, or takes advantage of any legal process for the relief of bankrupt or insolvent debtors; or

(b) a company which is in liquidation, other than liquidation which forms part of a scheme for the reconstruction of the company or for its amalgamation with another company.

(3) An artisan’s mining right shall not be granted to a person who is not a citizen of Zambia.
(4) Any document or transaction purporting to grant a mining right to any person not entitled to hold the right shall be void and of no effect.

8. (1) A mining right, and the rights conferred by it, shall be subject to the provisions of this Act and the regulations made under this Act, the conditions attached to it at the time it is granted and, to the extent that the amendment of such conditions during the currency of the mining right is permitted under this Act, to the conditions as amended from time to time.

(2) In the case of large-scale mining licence, this section has effect subject to section nine.

9. (1) For the purpose of encouraging and protecting large-scale investments in the mining sector in Zambia, the Minister may, on behalf of the Republic, enter into an agreement relating to the grant of a large-scale mining licence.

(2) An agreement referred to in subsection (1) shall be known as a development agreement, and may contain provisions binding on the Republic in relation to-

(a) mining operations under a large-scale mining licence, or the financing of any mining operations under such a licence;

(b) the circumstances or the manner in which the Minister or the director shall exercise any power or discretion conferred on them by this Act in respect of the licence; and

(c) the settlement of disputes arising out of or relating to the agreement, the administration of this Act, or the terms or conditions of a large-scale mining licence, including provisions relating to the settlement of any such dispute by international arbitration.

(d) the privatisation of the Zambia Consolidated Copper Mines Limited and any matters specified in the Second Schedule in which the Minister responsible for finance may, after consultation with the Minister responsible for such portfolio, make such stability commitments in relation to the said matters as the Minister may consider necessary.

(As amended by Act No. 41 of 1996)

10. (1) Subject to this Act, where more than one application for a mining right over the same area of land is duly lodged and received, the applications shall be disposed of in the order in which they are received.
(2) Every application for a mining right duly made by an applicant who has tendered any fee as prescribed by or under this Act shall be registered immediately in a register maintained for the purpose, and each application so registered shall be assigned a number, and the date and time when the application was received shall be indicated on an official receipt handed to the applicant or his authorised agent or sent to the applicant by registered mail.

11. Before a mining right is issued, the Director may require that the land over which the mining right is to be issued be properly surveyed in accordance with legal requirements.

PART III LARGE-SCALE MINING OPERATIONS

LARGE-SCALE MINING OPERATIONS

Prospecting Licences

12. A prospecting licence confers on the holder of the licence exclusive rights to carry on prospecting operations in the prospecting area for the minerals specified in the licence and to do all such other acts and things as are necessary for or reasonably incidental to the carrying on of those operations.

13. (1) An application for a prospecting licence shall be made to the Minister in the prescribed form and shall be accompanied by the prescribed fee.

(2) The application shall include-

(a) in the case of an applicant who is an individual, his name, address and nationality and in respect of a company that is an applicant, its registered name and address and the names, addresses and nationalities of the directors and of any shareholder who is the beneficial owner of more than five per centum of the issued capital;

(b) a full description of the area of land over which the licence is sought and a plan of the area prepared in such manner and showing such particulars as the Minister may reasonably require;

(c) a statement of the minerals to be searched for;

(d) details of any mining right previously granted to the applicant; and
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14. (1) The Minister shall, within sixty days of receipt of an application duly made, grant a prospecting licence to the applicant, unless-

(a) he is disqualified from holding a prospecting licence under section seven;

(b) he is the holder of another mining right and is in breach of any condition of that right or in breach of any of the provisions of this Act or the regulations in relation thereto;

(c) the area of land for which he has made application, or a part of it, is subject to another mining right, or extends to or is included in, an area in respect of which the Director has granted preliminary investigation rights on conditions which impose work or expenditure obligations, unless in any such case the applicant is himself the holder of that right; or

(d) the area of land for which application has been made covers or includes an area of land for which application has been made by another person who has priority over the applicant.

(2) A prospecting licence shall-

(a) state the date of the grant of the licence, the period, not exceeding two years, for which it is granted and the conditions on which it is granted;

(b) specify the minerals in respect of which it is granted; and

(c) include a description and plan of the prospecting area.

(3) There shall be appended to a prospecting licence the programme of prospecting operations, as accepted by the Minister, which shall form part of the conditions of the licence.

(4) In determining the date for the commencement in force of the licence, the Minister may take account of any period not exceeding six months from the date of the grant which is required by the applicant to make any necessary preparations for prospecting operations.

15. (1) A prospecting licence shall, on application, be renewed by the Minister for such period, not exceeding two years, as the licensee may require, if the holder of the licence-
16. The holder of a prospecting licence-
   (a) shall commence prospecting operations within ninety days, or such further period as the Minister may allow, after the date of the grant of the licence or such other date as is stated in the licence as its commencement date;
   (b) shall give notice to the Minister of the discovery of any mineral deposit of possible commercial value within thirty days of the discovery; and
   (c) shall expend on prospecting operations not less than the amount prescribed or required by the terms and conditions of the licence to be so expended.

17. Except for the purpose of having the mineral analysed determining the value of the mineral or conducting tests on the mineral, the holder of a prospecting licence shall not remove any mineral from the prospecting area without the written permission of the Director and shall, when so removing any mineral, comply with such conditions as the Director may specify in the written permission.

Retention Licences

18. A retention licence confers on the holder exclusive rights to apply for a large-scale mining licence within the area for which the retention licence has been granted.
19. (1) The holder of a prospecting licence may apply to the Minister for the grant of a retention licence on the grounds that-

(a) he has identified a mineral deposit within the prospecting area which is potentially of commercial significance; and

(b) the mineral deposit cannot be developed immediately by reason of adverse market conditions or other economic factors which are, or may be, of a temporary character.

(2) An application for a retention licence shall be accompanied by studies and assessments by appropriate experts or consultants acceptable to the Minister on-

(a) the extent and prospects for recovery, and the commercial significance, of the mineral deposit and the relevant market conditions and trends and economic factors; and

(b) the impact of mining operations for the recovery of the mineral deposit on the environment and ways and means of eliminating or minimising any adverse effects;

and such other information as the Minister may reasonably require as to the proposals of the applicant for the retention and development of the deposit.

20. (1) The Minister, if he is satisfied that commercial development of the deposit is not presently possible for the reasons specified in the application, but may be possible within a period of six years, may grant a retention licence to the applicant over that part of the prospecting area which the Minister, after consultation with the applicant, anticipates is, or might be, required to mine the deposit identified by the applicant.

(2) Without limiting the power of the Minister to impose conditions on a mining right, the conditions of the licence may include conditions for the preservation of the mineral deposit.

(3) A retention licence may be granted for a period not exceeding three years.

21. (1) If the Minister remains satisfied that commercial development is not possible at the expiry of a retention licence, the licence may, on the application of the holder, be renewed for a single period of three years.

(2) Before renewing such a licence, the Minister may require the holder to provide him with such updated studies and assessments of the prospects of the development and commercial exploitation of the mineral deposit as may reasonably be required.
22. If the Minister is satisfied that commercial mineral development of an area that is subject to a retention licence has become possible during the currency of the licence, he may, by notice to the holder of the licence, require the holder to apply for a large-scale mining licence in respect of the area concerned and may, at any time thereafter, cancel the retention licence.

Large-Scale Mining Licences

23. (1) A large-scale mining licence confers on the holder exclusive rights to carry on mining and prospecting operations in the mining area, and to do all such other acts and things as are necessary for or reasonably incidental to the carrying on of those operations.

(2) Without limiting the generality of subsection (1), the holder of a large-scale mining licence may himself or by his servants and agents-

(a) enter on to the mining area and take all reasonable measures on or under the surface for the purpose of mining operations;

(b) erect the necessary equipment, plant and buildings for the purposes of mining, transporting, dressing or treating the mineral recovered in the course of mining operations;

(c) dispose of any mineral product recovered;

(d) prospect within the mining area for any mineral; and

(e) stack or dump any mineral or waste products.

24. (1) The holder of a prospecting licence is entitled to the grant of a large-scale mining licence for the mining of minerals within the prospecting area.

(2) An application for a large-scale mining licence shall be made to the Minister in the prescribed form and shall be accompanied by the prescribed fee.

(3) Every application for a large scale mining licence shall include or be accompanied by-

(a) a statement of the period for which the licence is sought;

(b) a comprehensive statement of the mineral deposits in the area over which the licence is sought, including details of all known minerals proved, estimated or inferred, ore reserves and mining conditions;
(c) the proposed programme for mining operations, including a forecast of capital investment, the estimated recovery rate of ore and mineral products, and the proposed treatment and disposal of ore and minerals recovered;

(d) the applicant's environmental plan, including his proposals for the prevention of pollution, the treatment of wastes, the protection and reclamation of land and water resources, and for eliminating or minimising the adverse effects on the environment of mining operations;

(e) details of expected infrastructure requirements;

(f) the applicant's proposals with respect to the employment and training of citizens of Zambia;

(g) particulars of the prospecting licence held by the applicant;

(h) a full description of the land within the prospecting area for which the large-scale mining licence is sought and a plan of the proposed mining area prepared in such manner and showing such particulars as the Minister may reasonably require;

(i) such further information as the Minister may reasonably require for the disposal of the application.

(4) The applicant shall commission and produce to the Minister an environmental impact study on the proposed mining operations, to be prepared by persons who, in the opinion of the Minister, are suitably qualified and competent to do so.

25. (1) Subject to the other provisions of this Act, on application by the holder of a prospecting licence, the Minister shall grant a large-scale mining licence in respect of the whole or such part of the prospecting area as the applicant may require if, taking account of any relevant stipulation in a development agreement-

(a) it is established, or may be reasonably inferred, that there are sufficient deposits or reserves of minerals to justify their commercial exploitation;

(b) the area of land over which the licence is sought is not in excess of the area reasonably required to carry out the applicant's proposed programme for mining operations;

(c) judged by recognised standards of good mining practice, the applicant's proposed programme for mining operations would ensure the efficient and beneficial use of the mineral resources of the area over which the licence is sought;
the applicant's environmental plan conforms to specifications and practices established by national standards for the management of the environment as it is affected by mining operations;

taking account of the size and nature of the proposed mining operations, the applicant's proposals for the employment and training of citizens of Zambia are adequate; and

the applicant is not in breach of any condition of his prospecting licence or in breach of any of the provisions of this Act or the regulations:

Provided that the Minister shall not reject an application by virtue of this paragraph unless the applicant has been given details of his default and has failed to remedy it within such reasonable time as the Minister has allowed or, where a default is not capable of remedy, has not offered in respect thereof reasonable compensation.

(2) A large-scale mining licence shall be granted for such period, not exceeding twenty-five years, as the applicant may require.

(3) A large-scale mining licence shall-

(a) state the date of the grant of the licence, the period for which it is granted and the conditions on which it is granted; and

(b) include a description and plan of the area of land over which it is granted.

(4) There shall be appended to a large-scale mining licence-

(a) the programme of mining operations;

(b) the applicant's environmental plan; and

(c) the applicant's proposals for the employment and training of citizens of Zambia;

as accepted by the Minister, which shall form part of the conditions of the licence.

26. (1) The holder of a large-scale mining licence may, at any time not later than one year before the expiry of the licence, apply to the Minister for the renewal of the licence in respect of all or any part of the mining area.
(2) An application for renewal shall be made to the Minister in the prescribed form and shall be accompanied by the prescribed fee.

(3) An application under this section shall include or be accompanied by-

(a) a statement of the period, not exceeding twenty-five years, for which the renewal is sought;

(b) details of-
   (i) the latest proved, estimated and inferred ore reserves;
   (ii) the capital investment to be made in, and production costs and revenue forecasts in respect of, the period of renewal;
   (iii) any expected changes in methods of mining and treatment;
   (iv) any expected increase or reduction in mining activities and the estimated life of the mine;

(c) a proposed programme of mining operations for the period of renewals;

(d) if the renewal is sought in respect of part only of the mining area, a plan identifying that part.

(4) Except as provided by subsection (5), on an application duly made under this section, a large-scale mining licence shall be renewed by the Minister for a period not exceeding twenty-five years, and the Minister may renew the licence with or without a variation of the conditions of the licence.

(5) The Minister may reject an application for renewal after taking into account of any relevant stipulation in a development agreement-

(a) the development of the mining area has not proceeded with reasonable diligence;

(b) minerals in workable quantities do not remain to be produced;

(c) the programme of intended mining operations will not ensure the proper conservations and use in the national interest of the mineral resources of the mining area; or

(d) the applicant is in breach of any condition of his licence or in breach of any of the provisions of this Act or the regulations:
Provided that the Minister shall not reject an application by virtue of this paragraph unless the applicant has been given details of his default and has failed to remedy it within such reasonable time as the Minister has allowed or, where a default is not capable of remedy, has not offered in respect thereof reasonable compensation.

27. The holder of a large-scale mining licence shall-

(a) develop the mining area, and carry on mining operations, with due diligence and in compliance with his programme of mining operations and his environmental plan;

(b) employ and train citizens of Zambia in accordance with his proposals as appended to the licence; and

(c) demarcate the mining area, and keep it demarcated in the prescribed manner.

28. (1) The holder of a large-scale mining licence shall give notice to the Minister-

(a) at least ninety days in advance, if, without abandonment of his licence, he proposes to suspend production from his mine; and

(b) at least thirty days in advance, if he proposes to curtail such production; and shall, in either case, give reasons for such suspension or curtailment.

(2) The holder of a large-scale mining licence shall forthwith inform the Minister of the suspension or curtailment of production from his mine due to causes beyond his control.

(3) On receiving notice under subsection (1), or if he otherwise becomes aware of any suspension or curtailment of production, the Minister shall cause the matter to be investigated and may, subject to the terms of any relevant development agreement-

(a) give his approval, on such conditions as he may determine (including provision for the extension of any licence), to the suspension or curtailment of production; or

(b) direct the holder to resume full production at the mine within such date as he may specify.

PART IV SMALL-SCALE MINING OPERATIONS

SMALL-SCALE MINING OPERATIONS
29. A prospecting permit confers on the holder exclusive rights to carry on prospecting operations in the prospecting area for the minerals (not being gemstones) specified in the licence, and to do all such other acts and things as are necessary for or reasonably incidental to the carrying on of those operations.

30. (1) An application for a prospecting permit-

(a) shall be made to the Director; and

(b) shall be in the prescribed form and shall be accompanied by the prescribed fee.

(2) The application shall include-

(a) a statement of the minerals, other than gemstones, for which the applicant wishes to prospect;

(b) a description and sketch of the area of land for which the permit is sought, sufficient to enable identification of the area and to provide a plan to be annexed to the permit;

(c) a statement of the sum the applicant intends to expend on his prospecting operations; and

(d) a description of any mining right which has previously been granted to the applicant or for which he has previously made an application.

31. (1) The director shall, within thirty days of receipt of an application duly made, grant a prospecting permit to the applicant, unless-

(a) he is disqualified under section seven from holding the permit.

(b) the area over which he seeks a prospecting permit is already subject to a mining right; or

(c) the applicant is or was in breach of any condition of any other mining right or in breach of any of the provisions of this Act or the regulations:
Provided that the Director shall not reject an application by virtue of this paragraph unless the applicant has been given details of his default and has failed to remedy it within such reasonable time as the director has allowed or, where a default is not capable of remedy, has not offered in respect thereof reasonable compensation.

(2) A prospecting permit shall-

(a) state the date of the grant of the permit, the period for which it is granted and the conditions on which it is granted;

(b) specify the minerals in respect of which it is granted; and

(c) include a description and plan of the prospecting area.

(3) There shall be appended to a prospecting permit the programme of prospecting operations, as accepted by the Director, which shall form part of the conditions of the licence.

(4) The area of a prospecting permit shall not exceed ten square kilometres.

(5) A prospecting permit shall not be granted for a period exceeding two years, and shall not be renewed.

32. The holder of a prospecting permit shall give notice to the local office of the discovery of any mineral deposit of possible commercial value within thirty days of the discovery.

33. Except for the purpose of having the mineral analysed, determining the value of the mineral or conducting tests on the mineral, the holder of a prospecting permit shall not remove any mineral from the prospecting area without the written permission of the authorised officer at the local office and shall, when so removing any mineral, comply with such conditions as that officer may specify in the written permission.

34. (1) A small-scale mining licence confers on the holder exclusive rights to carry on mining operations in the mining area for minerals other than gemstones, and to do all such other acts and things as are necessary for or reasonably incidental to the carrying on of those operations.
(2) Without limiting the generality of subsection (1), the holder of a small-scale mining licence may himself or by his servants and agents-

(a) enter into or upon the mining area and take all reasonable measures on or under the surface for the purpose of mining operations;

(b) erect the necessary equipment, plant and buildings for the purposes of mining, transporting, dressing or treating the mineral recovered by him in the course of the mining operations;

(c) dispose of any mineral products recovered;

(d) prospect within the mining area for any mineral; and

(e) stack or dump any mineral or waste product.

35. (1) The holder of a prospecting permit may, at any time during the currency of his permit, apply to the Director for a small-scale mining licence over any part of the prospecting area.

(2) An application for a small-scale mining licence shall be in the prescribed form and shall be accompanied by the prescribed fee.

(3) Every application under this section shall-

(a) describe the area, not exceeding four hundred hectares, over which a small-scale mining licence is sought, with a sketch plan in sufficient detail to enable identification of the area;

(b) identify the relevant prospecting permit;

(c) describe to the best of the applicant's knowledge and belief the mineral deposits in the area over which the licence is sought;

(d) describe the proposed programme of mining operations, which shall include a forecast of investment, the estimated recovery rate of ore and the applicant's proposals for its treatment and disposal;

(e) state the duration, not exceeding ten years, for which the small-scale mining licence is sought; and
36. (1) The director shall, within thirty days of receipt of an application duly made, grant a small-scale mining licence to the applicant, unless-

(a) the applicant has, under section thirty-nine, been required to apply for a large-scale mining licence;

(b) the applicant is disqualified under section seven, or the area over which he seeks a small-scale mining licence is already subject to a mining right;

(c) the area in respect of which a small-scale mining licence is sought is in excess of the area required to mine the deposits identified by the applicant;

(d) the area of land for which application has been made covers or includes an area of land for which application has been made by another person who has priority over the applicant; or

(e) the applicant is or was in breach of any condition of any other mining right or in breach of any of the provisions of this Act or the regulations:

Provided that the Director shall not reject an application by virtue of this paragraph unless the applicant has been given details of his default and has failed to remedy it within such reasonable time as the Director has allowed or, where a default is not capable of remedy, has not offered in respect thereof reasonable compensation.

(2) A small-scale mining licence shall-

(a) state the date of the grant of the licence, the period for which it is granted and the conditions on which it is granted; and

(b) include a description and plan of the area of land over which it is granted.

(3) There shall be appended to a small-scale mining licence the programme of mining operations, as accepted by the Director, which shall form part of the conditions of the licence.

37. (1) The holder of a small-scale mining licence may apply to the Director for a renewal of the licence.
(2) An application for renewal shall be in the prescribed form and shall be accompanied by the prescribed fee.

(3) On an application made under this section, the Director shall renew the small-scale mining licence for the period specified in the application, not exceeding ten years, unless-

(a) the development of the mining area has not proceeded with reasonable diligence; or

(b) minerals in workable quantities do not remain to be produced; or

(c) the applicant is in breach of any condition of his licence or in breach of any of the provisions of this Act or the regulations:

Provided that the director shall not reject an application by virtue of this paragraph unless the applicant has been given details of his default and has failed to remedy it within such reasonable time as the Director has allowed or, where a default is not capable of remedy, has not offered in respect thereof reasonable compensation.

38. The holder of a small-scale mining licence shall-

(a) develop the mining area, and commence and carry on mining operations, with due diligence and in accordance with the programme of mining operations; and

(b) demarcate the mining area, and keep it demarcated, in the prescribed manner.

39. The Minister may require-

(a) any applicant for a small-scale mining licence; or

(b) the holder of a small-scale mining licence, if the Minister considers on reasonable grounds that the holder is engaged in mining operations on a substantial scale;

to apply for a large-scale mining licence, and, in any such case, the provisions of this Act shall apply, with any necessary modifications, to the applicant as if he were the holder of the prospecting licence who applies for a large-scale mining licence.

Gemstone Licences

40. A gemstone licence confers on the holder the same exclusive rights as a prospecting permit and a small-scale mining licence, but only in relation to gemstones.

41. An application for a gemstone licence shall be in the prescribed form, accompanied by the prescribed fee, and shall include or be accompanied by-
42. (1) The Director shall, within thirty days of receipt of an application duly made, grant a gemstone licence to the applicant, unless—

(a) the Minister has, under section forty-five, required the applicant to apply for a large-scale mining licence;

(b) the applicant is disqualified under section seven or the area over which he seeks a small-scale mining licence is already subject to a mining right;

(c) the area of land for which application has been made covers or includes an area of land for which application has been made by another person who has priority over the applicant; or

(d) the applicant is or was in breach of any condition of any other mining right or in breach of any of the provisions of this Act or the regulations:

Provided that the Director shall not reject an application by virtue of this paragraph unless the applicant has been given details of his default and has failed to remedy it within such reasonable time as the Director has allowed or, where a default is not capable of remedy, has not offered in respect thereof reasonable compensation.

(2) A gemstone licence shall be in such form as may be prescribed, and shall have annexed thereto a plan of the mining area.

(3) A gemstone licence may be granted over an area not exceeding four hundred hectares and for such period, not exceeding ten years, as the applicant may require.

43. (1) The holder of a gemstone licence may apply to the Director for a renewal of his licence.
(2) An application for renewal shall be in the prescribed form and shall be accompanied by the prescribed fee.

(3) On an application made under this section, the Director shall renew the licence for such period, not exceeding ten years, as the applicant may require, unless-

(a) the development of the mining area has not proceeded with reasonable diligence;

(b) minerals in workable quantities do not remain to be produced; or

(c) the applicant is in breach of any condition of his licence or in breach of any of the provisions of this Act or the regulations:

Provided that the Director shall not reject an application by virtue of this paragraph unless the applicant has been given details of his default and has failed to remedy it within such reasonable time as the Director has allowed or, where a default is not capable of remedy, has not offered in respect thereof reasonable compensation.

44. The holder of a gemstone licence shall give notice to the Director of the discovery of any mineral deposit of possible commercial value within thirty days of the discovery.

45. The Minister may require-

(a) any applicant for a gemstone licence; or

(b) a person who has held a gemstone licence for a period of five years, if the Minister considers on reasonable grounds that the holder is engaged in mining operations on a substantial scale;

to apply for a large-scale mining licence, and, in any such case, the provisions of this Act shall apply, with any necessary modifications, to the applicant as if he were the holder of a prospecting licence who applies for a large-scale mining licence.
(b) any environmental plan, or any programme for the employment or training
of citizens of Zambia, that forms part of the conditions of the licence

(2) Particulars of any proposed amendment shall be served on the Minister, in the
case of a licence granted under Part III, and on the director, in any other case.

(3) The Minister or the Director shall determine whether or not to approve the
amendment and, if he decides to approve the amendment, the terms and conditions, if
any, on which such approval is granted.

47. (1) At any time during the currency of a prospecting licence or prospecting
permit, the holder may re-orientate his area:

Provided that-

(a) no part of the re-orientated area shall overlap any area already subject to
another mining right; and

(b) at least twenty-five per centum of the re-orientated area shall consist of
land that was included in the prospecting areas as it was before
re-orientation.

(2) At any time during the currency of prospecting licence or prospecting permit, the
holder may, with the permission of the Minister and subject to such conditions as he may
impose in relation to the prospecting operations to be carried on under the licence,
increase the size of the prospecting area:

Provided that the prospecting area, as so increased, shall not exceed such areas as
may be prescribed by the Minister by statutory instrument.

(3) Each of the rights given under subsections (1) and (2) may be exercised once
during the total period of the currency of the licence and any renewals thereof.

48. (1) At any time during the currency of a large-scale mining licence or a
small-scale mining licence, the holder may apply-

(a) to the Minister, in the case of a large-scale licence; and
(b) to the director, in the case of a small-scale mining licence;

for the enlargement of the mining area and the Minister or the Director may, subject to this section, approve the application or refuse to do so.

(2) An application under this section shall not be approved if to do so would prejudice neighbouring mining rights.

(3) An approval under this section may be given unconditionally or subject to such conditions as the Minister or the Director may determine, and any such conditions shall be specified in the document signifying approval under this section.

(4) An approval under this section, together with any conditions to which it is subject, shall be endorsed on the applicant’s licence and the licence shall be deemed to be amended in accordance with the endorsement.

49. (1) The holder of a licence or permit who wishes to abandon all or any part of the land subject to the licence or permit shall apply to the Director, not later than ninety days before the date on which he wishes the abandonment to have effect, for a certificate of abandonment.

(2) Subject to this section, the Director shall issue to the applicant a certificate of abandonment either unconditionally or subject to such conditions relating to the abandoned land as the Director may determine.

(3) An application under this section-

(a) shall identify the land to be abandoned and, if the application applies to only a part of the land subject to the licence or permit, shall include a plan clearly identifying both the part to be abandoned and the part to be retained;

(b) shall state the date on which the applicant wishes the abandonment to take effect;

(c) shall give particulars of the operations which have been carried on under the licence or permit on the land to be abandoned; and

(d) shall be supported by such records and reports in relation to those operations as the director may reasonably require.

(4) A certificate of abandonment shall take effect on the date on which it is granted to the applicant, and-
(a) where the certificate relates to the whole of the land subject to the holder's licence or permit, the licence or permit shall be cancelled with effect from the same date; and

(b) in any other case, the licence or permit shall be amended to take account of the abandonment.

(5) The abandonment of any land does not affect any liability incurred before the date on which the abandonment has effect in respect of the land, and any legal proceedings that might have been commenced or continued in respect of any liability against the applicant for the certificate may be commenced or continued against that applicant.

50. (1) Subject to this section, where the holder of a licence or permit-

(a) has at any time contravened a condition of the licence or permit that is expressed in the licence or permit, or in any document attached to it or otherwise forming part of it, to be a condition whose contravention may result in revocation or suspension of the licence;

(b) fails to comply with any requirement of this Act or the regulations;

(c) fails to comply with a direction lawfully given under this Act or the regulations or with a condition on which any certificate of abandonment is issued or on which any exemption or consent is given under this Act or the regulations; or

(d) fails to pay any amount payable by him under this Act or the regulations within thirty days after the amount becomes due;

the Minister may, by notice in writing served on the holder of the licence, suspend or cancel the licence or permit.

(2) The Minister shall not suspend or cancel a licence or permit on grounds referred to in any of paragraphs (a) to (c) of subsection (1) unless-

(a) he has first served on the holder a default notice specifying the grounds on which the licence may be suspended or cancelled; and

(b) the holder has failed within a period of sixty days from the date on which the default notice was served, or such longer period as the Minister may allow, to remedy the default specified, or where such default is not capable of being remedied, has failed to offer in respect thereof reasonable compensation.
(3) The Minister shall not suspend or cancel a licence or permit on the ground referred to in paragraph (d) of subsection (1) if, within a period of sixty days from the date on which the default upon which the default notice was served (or such longer period as the Minister may allow) the holder, in addition to paying the amount overdue, pays interest on that amount at the prescribed rate.

(4) The Minister may, by notice in writing to the holder of a licence or permit, cancel the licence or permit on the occurrence of an event which, as provided by section seven, renders that person ineligible to hold a mining right.

(5) On the cancellation of a licence or permit under this section, the rights of the holder thereunder cease, but the cancellation does not affect any liability incurred before cancellation, and any legal proceedings that might have been commenced or continued against the former holder may be commenced or continued against him.

51. Where, over a continuous period of three years or longer, the holder of a small-scale mining licence has failed to carry on mining operations in accordance with his proposed plan of mining operations and over such period has in each year of production recovered less than fifty per centum of the ore which should have been recovered under his estimated recovery rate, the Minister may, if he thinks fit, cancel the licence.

52. Where the holder of a gemstone licence has failed to carry on mining operations in accordance with his proposed plan of mining operations and the gross proceeds of sale of minerals from an area subject to a gemstone licence in each of any three successive years is less than half of the deemed turnover applicable to that licence in each of those years, the Minister may, if he thinks fit, cancel the licence.

53. Where-
   (a) the holder of a licence or permit applies, during its currency, for a renewal of the licence or permit;
   (b) the holder of a prospecting licence applies, during the currency of the licence, for a retention licence or for a large-scale mining licence over all or part of the prospecting area;
   (c) the holder of a prospecting permit applies, during the currency of the permit, for a small-scale mining licence over all or part of the prospecting area; or
   (d) the holder of a retention licence applies, during the currency of the licence, for a large-scale mining licence over all or any part of the area which the retention licence is granted;
the current licence or permit shall continue in force until the date of the renewal or grant for which application is made or until the application is refused.

54. (1) No licence or permit shall be transferred without-
(a) the consent of the Minister, in the case of a licence granted under Part III; or

(b) the consent of the Director, in the case of any other licence or permit.

(2) Consent under this section shall not be unreasonably withheld.

(3) An application for consent under this section shall contain such particulars as may be prescribed, shall be in the prescribed form and shall be accompanied by the prescribed fee.

(4) No mining right may be transferred to a person disqualified under section seven from holding that right.

(5) In this section, "transfer" includes a sale, mortgage, charge or other assignment or encumbrance.

(6) Any transaction purporting to transfer a mining right in contravention of this section shall be void and of no effect.

55. (1) A company that holds a mining right shall not, after the date of the grant of the right, without the written consent of the Minister—

(a) register the transfer of any share or shares in the company to any particular person or his nominee; or

(b) enter into an agreement with any particular person; if the effect of doing so would be to give that person control of the company.

(2) On an application for consent under this section, the Minister may call for and obtain such information as is reasonably necessary, but such consent shall not be unreasonably withheld.

(3) For the purposes of this section-
a person is deemed to have control of a company-

(i) if the person or his nominee holds, or the person and his nominee together hold, a total of fifty per centum or more of the equity shares of the company; or

(ii) if the person is entitled to appoint, or to prevent the appointment of, half or more than half of the number of directors of the company;

(b) "equity shares" has the meaning ascribed to it in the Companies Act.

PART VI MINING RIGHTS AND SURFACE RIGHTS

56. (1) The holder of a licence or permit shall not exercise any of his rights under this Act or the licence or permit-

(a) without the written consent of the appropriate authority, upon-

(i) any land dedicated as a place of burial;

(ii) any land containing any ancient monument or national monument, as defined in the National Heritage Conservation Commission Act;

(iii) any land which is the site of or is within ninety metres of any building or dam owned by the Republic; or

(iv) any land forming part of a Government aerodrome as defined in the Air Navigation Regulations made under the Aviation Act;

(b) without the written consent of the owner or legal occupier thereof or his duly authorised agent-

(i) upon any land which is the site of or which is within one hundred and eighty metres of any inhabited, occupied or temporarily uninhabited house or building;

(ii) within forty-five metres of any land which has been cleared or ploughed or otherwise prepared in good faith for growing of farm crops or upon which farm crops are growing;

(iii) upon any land which is the site of or is within ninety metres of any cattle dip, tank, dam or any private water as defined in the Water Act; or

(iv) upon any land forming part of an aerodrome, other than an aerodrome referred to in sub paragraph (iv) of paragraph (a):

Provided that where any consent required under this subsection is unreasonably withheld, the Director may arrange for arbitration of the matter in accordance with section sixty;

(c) upon land occupied as a village, without the written consent of the chief and the local authority for the district in which the village is situated;
without the written consent of the railway administration, upon any land reserved for the purposes of any railway track or within one hundred metres of any railway track;

without the written consent of the appropriate authority or the local authority concerned, upon any land within, or within sixty metres of the boundaries of, any city, municipality or township for which a council is established under the provisions of the Local Government Act;

without the written consent of the appropriate authority, upon any land used as a forest nursery or plantation or as a timber depot, sawmill or other installation for working a forest; and

due compliance with the relevant provisions of the Forests Act, upon any land declared to be a national forest or local forest, as defined in that Act;

upon any street, road or highway, without the written consent of the appropriate authority or the public body which has the control thereof;

upon any land comprised in a National Park without complying with the National Parks and Wildlife Act;

upon any land that, under the Town and Country Planning Act, cannot be developed without permission, unless the requisite permission is first obtained.

Any consent given for the purposes of this section by the Director or the appropriate authority may be given unconditionally or subject to such conditions as are specified in the terms of the written consent.

In this section, "the appropriate authority", in relation to any matter, means the Minister for the time being having responsibility for that matter or such public officer as he may authorise to give the requisite consent on his behalf.

Subject to the terms of any access agreement, the rights conferred by a licence or permit shall be exercised reasonably and, except to the minimum extent necessary for the reasonable and proper conduct of the operations concerned, shall not be exercised so as to affect injuriously the interest of any owner or occupier of the land over which those rights extend.

Subject to the terms of any access agreement, the owner or occupier of any land within the area of a licence or permit shall retain the right to graze stock upon or to cultivate the surface of the land in so far as such grazing or cultivation does not interfere with the proper working in the area for mining, prospecting or other operations to be carried on under the licence or permit, but shall not erect any building or structure thereon without the consent of the holder of the licence or permit:
Provided that where such consent is unreasonably withheld, the Director may grant it.

59. The holder of any licence or permit who requires the exclusive or other use of the whole or any portion of the prospecting or mining area for the purpose of his licence or permit may, in accordance with the laws relating to such acquisition, acquire a lease thereof or other right to use the same upon such terms as may be agreed between such holder and the owner or occupier of the land:

Provided that the holder of a licence or permit shall not purchase or obtain a lease of or other rights over any land specified in paragraph (a), or in any of paragraphs (c) to (h), of subsection (1) of section fifty-six, except with the consents of the appropriate authorities mentioned in that section.

60. Where there is any dispute as to-

(a) whether or not paragraph (b) of subsection (1) of section fifty-six applies in respect of any land, or the withholding of any consent under that subsection;

(b) the withholding of any consent under section fifty-six; or

(c) any other matter arising under this Part that is prescribed by the Minister by statutory instrument;

any part to the dispute may apply to the Director, who may require the parties to enter into a submission within the meaning of the Arbitration Act or, by consent of both parties, determine the dispute himself:

Provided that this subsection shall have effect subject to the terms of any access agreement.

61. Whenever in the course of prospecting or mining operations any disturbance of the rights of the owner or occupier of land or damage to any crops, trees, buildings, stock or works thereon is caused, the owner of the mining right by virtue of which such operations are or were carried out shall be liable to pay to such owner or occupier fair and reasonable compensation for such disturbance or damage according to their respective rights or interests, if any, in the property concerned:

Provided that-

(a) compensation shall not be payable under this section in respect of any indigenous wood or timber taken-

(i) upon land that has been declared a local forest or a national forest under the provisions of the Forests Act, upon payment of the fees prescribed under that Act; or
(ii) upon other land that has not been alienated by the President in accordance with the Lands Act; and

(b) where the value of any land has been enhanced by the fact that prospecting or mining operations are taking place or have taken place on the land or nearby, the amount of any compensation payable under this section in relation to that land shall not exceed the amount that would have been payable if such value had not been so enhanced.

PART VII ARTISANAL MINING

ARTISANAL MINING

62. An artisan’s mining right shall confer on the person to whom it is granted, or in the case of a right granted in accordance with subsection (2) of section sixty-four, on the community concerned, exclusive rights to mine according to its terms in respect of the mineral specified in the permit within the area for which it is granted.

63. (1) Any citizen of Zambia who has identified a mineral deposit may apply to the authorised officer at the local office for an artisan’s mining right.

(2) An application for an artisan’s mining right shall be in the prescribed form and shall be accompanied by the prescribed fee.

64. (1) Subject to this section, the authorised officer at the local office shall, within thirty days of receipt of an application duly made, grant an artisan’s mining right to the applicant, to explore and mine the deposit referred to in the application.

(2) Where the authorised officer is satisfied that, in the particular area concerned, mining operations are being carried on a community basis in accordance with customary practices, he shall authorise such operations by the grant of an artisan’s mining right to a chief or such other person as the Minister may, by statutory instrument, prescribe.

(3) The authorised officer shall not grant an artisan’s mining right, and may suspend or cancel a right granted, to any person disqualified by section seven or who he is satisfied has been convicted of an offence against this Act, the regulations or any written law repealed by this Act.

(4) An artisan’s mining right shall remain in force for a period of two years, and shall not be renewed:

Provided that nothing in this subsection shall prevent the grant of a further right on the expiry of any current right.
(5) An artisan's mining right shall identify the minerals in respect of which it is granted and shall be granted over an area not exceeding five hectares, not being an area that is already subject to a mining right, which shall be delineated on a plan attached to the right.

65. (1) Except as otherwise provided by statutory instrument made under this Act, nothing in this Act shall operate to prevent—

(a) the taking, by the owner or occupier of any land that is not subject to a mining right, of limestone or other building materials ordinarily used for building, road making or agricultural purposes, from the land, where—

(i) the materials so taken are for use on the land concerned; and

(ii) such owner or occupier is the holder of a permit from the Director authorising such taking;

(b) the taking, by the holder of a mining right in respect of any land, of such materials from the land for use on the land;

(c) the taking, by the owner or occupier of any land that is subject to a mining right, of such materials from the land with the consent of the holder of the mining right and for use on the land; or

(d) the taking by the Republic, any local authority, a highway authority, or any person duly authorised by any such authority and acting under the Roads and Road Traffic Act, of such materials for public purposes.

(2) The provisions of this section shall not affect any requirement of this or any other Act to obtain any requisite consent from any owner or occupier of land or any public authority or other person.

PART VIII ROYALTIES AND CHARGES

ROYALTIES AND CHARGES

Royalties

66. (1) The holder of a large-scale mining licence shall, in accordance with his licence, this Act and the terms of any relevant development agreement, pay to the Republic a royalty on the net back value of minerals produced under his licence at the rate of three per centum.
(2) In this section—

"net back value" means the market value of minerals free-on-board at the point of export from Zambia or, in the case of consumption within Zambia, at the point of delivery within Zambia, less—

(a) the cost of transport, including insurance and handling charges, from the mining area to the point of export or delivery; and

(b) the cost of smelting and refining or other processing costs, except such other processing costs as relate to processing normally carried out in Zambia in the mining area;

"market value" means the realised price for a sale free-on-board at the point of export from Zambia or point of delivery within Zambia:

Provided that if the Minister considers that the realised price does not correspond to the price that would have been paid for the minerals if they had been sold on similar terms in a transaction at arms length between a willing seller and a willing buyer, he may give notice to that effect to the licensee; whereupon the amount of the market value shall be settled by agreement between the Minister and the licensee or, in default of agreement, by an independent expert appointed jointly by the Minister and the licensee.

66A. The Zambia Revenue Authority established under the Zambia Revenue Authority Act, shall be responsible for carrying provisions of sections sixty-six to sixty-nine of this Act.

(As amended by Act No. 8 of 1997)

66B. Sections forty-five, forty-seven to forty-nine, fifty-five to fifty-eight, sixty-three to seventy, seventy-eight, seventy-nine, eighty-seven, ninety-one, ninety-five and ninety-eight to one hundred and fifteen of the Income Tax Act shall, with the necessary modification, apply to the collection, assessment, penalisation, enforcement of, and right of appeal with respect to any royalty imposed under section sixty-six of this Act.

(As amended by Act No. 8 of 1997)

67. (1) The Minister responsible for finance may after consultation with the Minister, remit in whole or part any royalty payable on any mineral, or on any mineral obtained from a particular deposit, for such period as he may determine, if he considers it expedient in the interests of the production of the mineral to do so.

(2) The Minister may exempt from liability to royalty samples of minerals acquired for purposes of assay, analysis or other examination.
(3) The Commissioner-General may, on application by the holder of a large-scale mining licence, defer payment of royalty due from such holder if, during any period for which a payment of royalty is due as prescribed under this Act (in this section referred to as "the royalty payment period"), the cash operating margin of the holder in respect of mining operations in the mining area falls below zero; and in any such case, the amount payable on account of royalty in respect of that period shall be reduced to such an extent as is necessary to increase the cash operating margin to zero, and payment of the difference between the royalty due in respect of that period and the reduced amount shall be deferred.

(4) Where the payment of any royalty is deferred-

(a) it shall be accumulated with any other deferred payment of royalty which is outstanding;

(b) the amount outstanding shall become payable when royalty is due in respect of the next following royalty payment period or periods in which, after the deduction of the royalty then due, the cash operating margin is positive; and

(c) the sum payable on any particular occasion under paragraph (b) shall not exceed that which would reduce the cash operating margin for the relevant royalty payment period below zero.

(5) In this section-

"cash operating margin" means the amount derived by deducting operating costs from revenue;

"operating costs" means cash expenditures incurred in mining operations after the commencement of production from the mining area, other than-

(i) capital expenditure or any expenditure of a capital nature;

(ii) provision for depreciation;

(iii) financing charges, including interest on loans and fees and related charges in respect thereof; or

(iv) agency fees or any other fees or charges not directly or necessarily related to the production and disposal of minerals from the mining area;

"revenue" means the gross value of all sales or other disposal of minerals.

(As amended by Act No. 8 of 1997)

68. (1) Where, for any reason, it is impractical to assess the amount of any royalty due, the Commissioner-General may assess, and the holder of the licence shall be liable to pay, a provisional royalty.
(2) Where provisional royalty is assessed under this section, and the amount of the royalty is ascertained at the end of any period of adjustment prescribed under this Act, the holder of the licence shall be liable for any balance or, as the case may require, shall be repaid any excess sum paid by him on such provisional assessment.

(As amended by Act No. 8 of 1997)

69. (1) If the holder of a large-scale mining licence fails to pay any royalty or provisional royalty payable by him on or before the due date of any extension thereof allowed by the Commissioner-General, the Commissioner-General may, by order served on the holder, prohibit the disposal of any mining from the mining area concerned, or from any other mining area held by that holder, until an arrangement has been made that is acceptable to the Commissioner-General for the payment of the royalties.

(2) Any holder of a large-scale mining licence who contravenes or fails to comply with an order given under subsection (1), and any person who, knowing of such order and contrary thereto, receives any mineral from the area concerned, shall be guilty of an offence and shall be liable on conviction-

(a) in the case of an individual, to a fine not exceeding twenty thousand penalty units or imprisonment for a term not exceeding two years, or to both; or

(b) in the case of a body corporate, to a fine not exceeding fifty thousand penalty units.

(3) For the purposes of this section and sections sixty-six A to sixty-eight, the "Commissioner-General" means the Commissioner-General of the Zambia Revenue Authority.

(As amended by Act No. 8 of 1997)

Other Charges

70. (1) There shall be payable to the Republic by the holder of every prospecting licence, retention licence or large-scale mining licence an annual fee of such amount as may be prescribed, or as may be calculated in the manner prescribed, by the Minister by statutory instrument.

(2) The annual charge shall be payable on the grant of the licence and thereafter annually on the anniversary thereof until the termination of the licence.

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71. There shall be payable to the Republic by the holder of prospecting permit a charge, at such rate per hectare of the prospecting area as may be prescribed by the Minister by statutory instrument.

72. The amount of the annual rent for a small-scale mining licence shall be as follows:
   (a) where the holder is mining building materials, rent calculated by reference to tonnages mined shall be paid as prescribed, or in the manner prescribed, by the Minister by statutory instrument;
   (b) in any other case, rent shall be paid annually in an amount equal to five per centum of the realised proceeds of the minerals mined in the mining area and sold or otherwise disposed of by the holder:

Provided that if the Director has reasonable grounds to believe that the proceeds alleged to be realised by the holder do not represent the true market value of the minerals sold or otherwise disposed of he may, for the purpose of ascertaining the amount of rent due, require, by order under his hand, that the minerals be valued by such reasonable method as he may specify in that order.

73. (1) The amount of the annual rent and the deemed turnover for a gemstone licence shall be as set forth in the Second Schedule.

(2) The Minister may, by statutory instrument, from time to time amend or replace the Second Schedule.

74. There shall be payable to the Republic by the holder of an artisan's mining right such charge as may be prescribed, or as may be calculated in the manner prescribed, by the Minister by statutory instrument, and such charge shall be payable on the grant of the right.

PART IX ENVIRONMENTAL PROTECTION

75. In deciding whether or not to grant any mining right, the Minister shall take into account the need to conserve and protect-
   (a) the air, water and soil, flora, fauna, fish, fisheries and scenic attractions; and
   (b) the features of cultural, architectural, archaeological, historical or geological interests;

in or on the land over which the right is sought, and the Minister may cause such environmental impact studies and other studies to be carried out as the Minister considers necessary to enable such a decision to be made.
76. (1) The conditions subject to which the right is granted or renewed shall include such conditions as may be prescribed by the Minister, by statutory instrument, or as the Minister may, in a particular case, otherwise determine, in relation to-

(a) the conservation and protection of-
   (i) the air, water and soil, flora, fauna, fish, fisheries and scenic attractions; and
   (ii) the features of cultural, architectural, archaeological, historical or geological interest;

in or on the land subject to the right;

(b) the rehabilitation, levelling, re-grassing, re-forestation or contouring of such part of the land over which the right has effect as may have been damaged or adversely affected by prospecting operations or mining operations; and

(c) the filling in, sealing or fencing off of excavations, shafts and tunnels.

(2) Any conditions of the kind referred to in subsection (1)-

(a) shall conform to specifications and practices established by national standards for the management of the environment as it is affected by mining operations; and

(b) may include requirements for the lodgment, by an applicant for the grant or renewal of a licence or permit, of one or more cash deposits for securing the performance by such applicant of all or any such conditions.

77. (1) The Director of Mine Safety may cause to be served on a person who is or has been the holder of a mining right a written notice directing the person to take specified steps, within a specified time, to give effect to any conditions included in an environmental plan, a development agreement or otherwise attaching to the right, for the protection of the environment.

(2) A person on whom such a direction has been served who fails to comply with the direction shall be guilty of an offence and shall be liable, upon conviction, to a penalty not exceeding fifty thousand penalty units.

78. (1) If a person to whom a direction is given under section seventy-seven fails to comply with the direction, the Director of Mine Safety may himself cause the necessary steps to be taken to execute it, and the costs thereof and incidental thereto shall be a debt due to the Republic from the person to whom the direction was given and shall be recoverable in any court of competent jurisdiction on behalf of the Republic;
(2) Recovery of a debt due to the Republic under this section, a certificate signed by the Director of Mine Safety and stating that a specified amount is the amount of the debt so due shall be admissible in evidence in all courts.

(3) A debt due to the Republic under this section is recoverable whether or not the person by whom it is due is prosecuted or convicted of an offence under this Part.

79. (1) The holder of a mining right over land that ceases to be subject to the mining right-

(a) may, within the prescribed period; and

(b) shall, if directed to do so by the Director of Mine Safety by notice in writing, within the period specified in the notice; cause to be removed from the land any mining plant brought on to, or erected upon, that land in the course of mining operations carried out under the mining right.

(2) The Director of Mine Safety may give a direction under this section even though the prescribed period has not expired.

(3) In this section, "prescribed period" means the period of six months from the date on which the land ceased to be subject to the mining right or such longer period as the Director of Mine Safety, with the consent of the Minister, may, in any particular case, allow.

80. (1) If mining plant is not duly removed under section seventy-nine, the Director of Mine Safety may direct that the mining plant be sold by private auction.

(2) Any mining plant remaining unsold after the public auction has been held may be sold by private treaty.

(3) The following amounts shall be deducted from the proceeds of any such sale:

(a) the costs of the sale and of any matter incidental to or connected with the sale;

(b) the costs of removing from the land concerned any mining plant remaining unsold after the public auction;

(c) any amount owing in respect of compensation payable under section sixty-one;
(d) any other amount that the Director of Mine Safety certifies to be a deductible amount.

(4) Any balance remaining shall be paid to the Minister responsible for finance, who shall credit the same to a trust account, and who may, on application, pay it to any person appearing to him to be lawfully entitled to it; but if no person applies within a period of ninety days, it shall be paid to the revenues of the Republic.

(5) If the proceeds of sale are less than the amounts to be deducted-

(a) the shortfall shall be a debt due to the Republic from the person to whom the relevant direction was given and shall be recoverable in any court of competent jurisdiction; and

(b) the proceeds of sale shall be applied in meeting those amounts in such manner as the Minister may direct.

(6) A debt due to the Republic under this section is recoverable whether or not the person by whom it is due is prosecuted or convicted of an offence under this Part.

81. (1) Where the Director of Mine Safety considers that a holder of a mining right is using wasteful mining practices, he may give notice to the holder accordingly (giving in the notice particulars of the practices) and require the holder to reply in writing showing cause, within a time limited by the notice, why he should not cease to use those practices.

(2) Where the holder fails, within the time allowed, to satisfy the Director of Mine Safety that he is not using the wasteful practices concerned, or that the use of those practices is justified, the Director of Mine Safety may give notice to the holder directing him to cease using all of those practices, or the practices specified in the notice, by such date as is specified in the notice, and the holder shall do as so directed.

(3) A person who contravenes subsection (2) shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding fifty thousand penalty units.

82. (1) There shall be an Environmental Protection Fund, which shall be managed in such manner as the Minister may be Statutory Instrument, prescribe.

(2) There shall be paid into the Fund the amount of any cash deposit referred to in section seventy-six.

(3) Moneys from the fund may be applied-
(a) at the expiry or termination of a licence or permit by way of refund to the holder thereof of the amount of any cash deposits referred to in section seventy-six that were paid by him, to the extent that such moneys are not appropriated under paragraph (b); or

(b) to the payment of any debt due or under subsection (1) of section seventy-eight or under subsection (5) of section eighty, to the extent that the debt concerned is not paid by or recovered from the person from whom it is due, and regardless of whether proceedings have been taken against that person for an offence under this Part or for recovery of any such debt:

Provided that, in the case of any particular debtor, the amount of any moneys expended under this paragraph for or toward the satisfaction of his debts shall not exceed the amount of any cash deposits referred to in section seventy-six that were lodged by him.

(4) Moneys standing to the credit of the Fund that are not immediately required for the purposes of the Fund may be invested in such manner as the Minister, with the concurrence of the Minister responsible for finance, may determine.

(As amended by Act No. 8 of 1997)

PART X ADMINISTRATION

83. (1) There shall be a Director of Mines, who shall be a public officer and who shall have and may exercise and perform the powers and functions conferred or imposed upon the Director by or under this Act or any other written law, and who shall generally supervise and regulate the proper and effectual carrying out of the provisions of this Act.

(2) There shall be a Director of Mine Safety, who shall be a public officer and who shall have and may exercise and perform the powers and functions conferred or imposed upon him by or under this Act or any other written law, and who shall have general responsibility for matters concerning the safety of prospecting, exploration and mining operations.

(3) There shall be a Director of Geological Survey, who shall be a public officer and who shall have and may exercise and perform the powers and functions conferred or imposed upon him by or under this Act or any other written law.

(4) Such other public officers as may be necessary for the due administration of this Act shall be appointed.
(5) The Director may, by statutory notice, designate any public officer to an authorised officer for the purpose of the exercise and performance of all or any of the functions conferred on an authorised officer by any of the provisions of this Act or any statutory instrument made under this Act.

(6) Every authorised officer who, by virtue of his designation as such, has power to enter any land or demand production of any records or documents shall be provided with a certificate of appointment, which shall be prima facie evidence of his designation; and the officer shall, on demand by a person affected by the exercise of any such power, produce for inspection his certificate of appointment.

84. (1) Whilst any officer referred to in subsection (1), (2) or (3) of section eighty-three is vacant or the holder of any such office is, owing to absence or inability to act from illness or other cause, unable to exercise and perform the powers and functions of the office concerned, a person shall be appointed to exercise and perform his powers and functions.

(2) The holder of any officer referred to in subsection (1) may, by statutory notice, and subject to such conditions, qualifications or exemptions as may be prescribed therein, delegate to any public officer the exercise or performance of any of the powers and functions conferred or imposed on him by this Act:

Provided that any such office-holder may exercise or perform a power or function notwithstanding that he has delegated the exercise or performance thereof to some other person.

85. The Attorney-General may demand, sue for, recover and receive all royalties, fees, dues, rents or payments which may become due in respect of any mining right or otherwise under the provisions of this Act.

86. The Director of Geological Survey shall-

(a) advise the Minister on geological matters;
(b) undertake the geological mapping of Zambia;
(c) undertake prospecting and exploration operations on behalf of the Republic;
(d) provide data concerning the geology and mineral resources of Zambia, and generally assist members of the public seeking information concerning geological matters; and
(e) maintain such laboratory, library and record facilities as may be necessary for the performance of his functions.

87. (1) The Director of Geological Survey or an authorised officer may, for the purpose of carrying out the geological mapping of Zambia or any part thereof-
(a) enter at all reasonable hours upon any land with such persons, animals, vehicles, appliances, instruments and materials as are necessary for such survey;

(b) break up the surface of any part of such land for the purpose of ascertaining the rocks or minerals within or under the same;

(c) take and carry away samples and specimens of the soil, rocks or minerals found therein;

(d) fix any post, stone, mark or object to be used in the survey of any such land;

(e) dig up any ground for the purpose of fixing any such post, stone, mark or object; and

(f) enter into or upon any land through which it may be necessary to pass for the purpose of such survey:

Provided that:

(i) it shall not be lawful to fix any object, post, stone or mark with any walled or fenced garden or orchard without the consent of the owner or occupier thereof;

(ii) notice in writing of the intention to exercise any of the powers conferred by this subsection shall be given in the Gazette, and in a newspaper of general circulation in the area where the land is situated, at least fourteen days before the exercise of the powers, unless the land concerned is State land that has been alienated by the President in accordance with the Lands Act;

(iii) as little damage and inconvenience as possible shall be caused by the exercise of any of the powers conferred by this subsection;

(iv) before abandoning any land, all excavations opened shall be backfilled.

(2) For the purpose of carrying on prospecting operations on behalf of the Republic, the Director or an authorised officer may enter upon any land with such number of persons as he may deem necessary, and exercise the rights of a holder of a prospecting licence:

Provided that nothing in this subsection shall authorise any person to enter upon any land referred to in subsection (1) of section fifty-six without obtaining any consent required to be obtained under that section.
88. (1) There shall be a Mining Advisory Committee, which shall advise the Minister or the Director in relation to the matters prescribed by or under this Act and such other matters in connection with the administration of this Act as may be referred to it by the Minister.

(2) The provisions of the Second Schedule shall apply to the composition, and the powers and functions, of the Committee.

89. (1) No information furnished, or information in a report submitted, to the Minister, the Director, or any officer under or for the purposes of this Act by the holder of a mining right shall, for so long as the mining right has effect over the land to which the information relates, be disclosed, except with the consent of the holder of the mining right.

(2) Nothing in subsection (1) shall operate to prevent the disclosure of information where the disclosure is made-

(a) for or in connection with the administration of this Act.

Disclosure of information

Where any matter is referred to the mining Advisory Committee for its advice it shall be the duty of the Minister or the Director, as the case may be, in whom the power is vested, to refer the matter to the Mining Advisory Committee for its advice.

(3) Before exercising any power under this Act-

(a) to determine any appeal that lies to him;  
(b) to terminate, suspend or cancel a licence;  
(c) to refuse to grant or renew a licence;  
(d) to refuse to grant or renew a licence;  
(e) to determine any appeal that lies to him;  
(f) to amend the terms or conditions of any licence; or  
(g) to refuse to grant or renew a licence;

it shall be the duty of the Minister or the Director, as the case may be, in whom the power is vested, to refer the matter to the Mining Advisory Committee for its advice.

(4) Where any matter is referred to the mining Advisory Committee for its advice and the Minister or the Director proposes to dispose of that matter otherwise than in accordance with the advice of the Committee, the Minister or the Director shall before disposing of the application, furnish the Committee with a statement in writing of his reasons for so doing.

(5) Where a matter referred to in subsection (4) is an application for the grant or renewal of a licence, a copy of any statement of the Minister or the Director under that subsection shall be furnished to the applicant.
(b) for the purpose of any legal proceedings;

(c) for the purpose of any investigation or inquiry conducted under this Act;

(d) to any person being a consultant to the government or public officer who is authorised by the Minister to receive such information; or

(e) for, or in connection with, the preparation by or on behalf of the government of statistics in respect of prospecting or mining:

Provided that a disclosure authorised by this paragraph shall be no more specific in detail than is necessary for the purpose of the statistics concerned.

(3) Any person who contravenes this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

90. No officer of the Ministry or other public officer shall be liable for anything done or omitted to be done in good faith in the exercise or performance, of purported exercise or performance, of any power or function vested in him by, or in accordance with an appointment made under, this Act.

PART XI APPEALS

91. (1) Any person aggrieved by the decision of an authorised officer at a local office—

(a) to refuse the grant of an artisan's mining right for which he has applied, or as to the conditions to be imposed on an artisan's mining right held by him; or

(b) as to any matter prescribed by the Minister by statutory instrument;

may appeal to the Director, who shall determine the appeal, having regard to the provisions of this Act and the circumstances of the case.

(2) A determination of the Director, under this section may include such directions to the authorised officer concerned as the Director thinks fit for the disposal of the matter, and the officer shall give effect to any such directions.
92. (1) Any person aggrieved by the decision of the Director-

(a) to refuse the grant or renewal of a licence or permit granted under Part IV;

(b) as to the conditions to be imposed on any such licence or permit held by him;

(c) to cancel or suspend any such licence or permit held by him;

(d) to refuse to consent to the transfer of any such licence or permit held by him; or

(e) to refuse to grant or renew a gemstone sales certificate;

may appeal to the Minister, who shall determine the appeal, having regard to the provisions of this Act and the circumstances of the case.

(2) A determination of the Minister under this section may include such directions to the Director as the Minister thinks fit for the disposal of the matter, and the Director shall give effect to any such directions.

93. (1) Any person aggrieved by the decision of the Minister-

(a) to refuse the grant or renewal of a licence granted under Part III;

(b) as to the conditions to be imposed on any such licence held by him;

(c) to cancel or suspend any such licence held by him; or

(d) to refuse to consent to the transfer of any such licence held by him, or to the registration of shares or the entry into any agreement affecting control of a company;

may appeal to the High Court, which shall determine the appeal, having regard to the provisions of this Act and the circumstances of the case.

(2) A determination of the Court under this section may include such directions to the Minister as the Court thinks fit for the disposal of the matter, and it shall be the duty of the Minister to give effect to any such directions.
94. (1) The holder of any mining right who is aggrieved by any obligation imposed by a direction of the Director under section one hundred and one may appeal to the Minister, who shall determine the appeal, having regard to the provisions of this Act and the circumstances of the case.

(2) A determination of the Minister under this section may include such directions to the Director as the Minister thinks fit for the disposal of the matter, and that officer shall give effect to any such directions.

95. Whenever the Minister, the Director or any authorised officer makes a decision against which an appeal lies by virtue of a provision of this Part, the licensee or applicant affected by the decision shall be informed by notice in writing of the decision and of the reasons therefor and any such notice shall inform the person so notified of his rights of appeal.

PART XII INVESTMENT INCENTIVES

INVESTMENT INCENTIVES

96. Any investment in mining, including prospecting, by the holder of a mining right shall attract the deductions from income tax set forth in the Fourth Schedule.

97. (1) The holder of a mining right shall be entitled to exemption from customs and excise duties, and from any other duty or impost levied under the Customs and Excise Act, in respect of all machinery and equipment (including specialised motor vehicles) required for any of the activities carried on or to be carried on in pursuance of the right or otherwise for the purposes of his investment in mining or prospecting.

(2) The exemption to which an investor is entitled under this section shall be granted on application made in such manner, and accompanied by such evidence, as may be prescribed by a statutory instrument made under the Customs and Excise Act by the Minister responsible for finance.

98. (Repealed by Act No. 1 of 1997)
99. (1) No person shall carry on a business of trading in gemstones unless he holds a gemstone sales certificate.

(2) A gemstone sales certificate shall be granted by the Director to any applicant who is a citizen and makes an application in the prescribed form and tenders the prescribed fee.

(3) A gemstone sales certificate shall be valid for one year but may be renewed on payment of the prescribed renewal fee.

(4) The holder of a gemstone sales certificate shall, in respect of any purchase of uncut and unpolished stones located in Zambia, keep such records as may be prescribed and shall make them available at all times for inspection by an authorised officer.

(5) Any person in Zambia who is not the holder of a valid gemstone sales certificate shall be guilty of an offence if he is found in possession of uncut and unpolished gemstones, unless:

(a) he is the holder of a gemstone licence;

(b) he is the holder of a large-scale mining licence under which gemstones are produced; or

(c) he satisfies the court that he acquired possession of the gemstones lawfully and that he holds them otherwise than for the purposes of trade.

(6) A person convicted of an offence under subsection (5) shall be liable to a fine not exceeding twenty thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

100. (1) No person shall export any radioactive mineral except under and in accordance with the terms and conditions of a consent granted by the Minister.

(2) An application for a consent to export radioactive minerals shall be in the prescribed form and shall be accompanied by the prescribed fee; and the Minister shall decide whether or not to grant the application and the terms and conditions of any consent to export.

(3) Any person who exports or attempts to export any radioactive mineral otherwise than under and in accordance with a consent granted under this section shall be guilty of an offence and shall be liable on conviction.
(a) in the case of an individual, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a term not exceeding ten years, or to both; and

(b) in the case of a body corporate, to a fine not exceeding one hundred thousand penalty units.

(4) In this section, “radioactive mineral” means a mineral which contains by weight at least one-twentieth of one per centum of uranium or thorium or any combination thereof, and includes, but is not limited to-

(a) monazite, sand and other ores containing thorium;

(b) carnotite, pitchblende and other ores containing uranium.

101. (1) The holder of a mining right granted under Part III shall-

(a) obtain, and maintain at all times during the lifetime of the mining right and for the prescribed period thereafter; and

(b) cause its contractors to obtain and maintain at all such times; insurance coverage, in such amounts and against such risks as may be prescribed by the Minister by statutory instrument, and shall furnish to the Minister certificates evidencing that such coverage is in effect and provide copies of any policies requested.

(2) A statutory instrument made under subsection (1) shall include requirements for such insurance coverage as it is customary internationally to obtain in the mining industry in accordance with good mining industry practice.

(3) The holder of a mining right granted under Part IV shall, if so directed by the Director by a notice in writing, obtain and maintain in force in respect of the mining operations carried on by the holder, such insurance cover as the Director may consider reasonably necessary in the public interest.

(4) The holder of a mining right shall indemnify, defend and hold the Republic harmless against all actions, claims, demands, injury, losses or damages of any nature whatsoever, including, without limitation, claims for loss or damage to property or injury or death to persons, resulting from any act or omission in the conduct of mining operations by or on behalf of the holder, provided that such indemnity shall not apply to the extent, if any, that any action, claim, demand, loss, damage or injury resulted from any direction given by, or wrongful act committed on behalf of the Republic.
102. Any person who, without reasonable excuse, obstructs or hinders the holder of a mining right from doing any act which that holder is authorised to do by this Act, the regulations or his mining right, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

103. (1) Where the Director has reason to believe that a person is capable of giving information or producing or making available books or documents relating to minerals obtained, or the value of minerals obtained, he may, by notice in writing served on that person, require that person-

(a) to furnish to him in writing, within the period and in the manner specified in the notice, any such information;

(b) to attend before him or a person specified in the instrument, at a time and place so specified, and there to answer questions relating to minerals obtained or the value of minerals obtained; or

(c) to make available to a person specified in the instrument, at a time and place so specified, books or documents in his custody or power relating to minerals obtained or the value of minerals obtained.

(2) Where books or documents are made available as required under this section, the person to whom the books or documents are made available may make copies of, or take extracts from, the books or documents.

(3) A person who refuses or fails to comply with a requirement under this section, to the extent to which he is capable of complying with it, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

104. (1) The holder of a mining right shall submit reports, keep records and furnish information as required in the Fifth Schedule.

(2) The holder of a mining right shall maintain an address in Zambia to which communications may be sent and shall give notice to the Director or, where the right is granted by the authorised officer at the local office, that officer, of that address and of any changes of that address.

(3) The Director may direct the holder of a mining right, at a reasonable time and place specified in the direction, to make available to, or to produce for inspection by, himself or an authorised officer at the local office any books, accounts, vouchers, documents or records of any kind concerning the mining right, and the holder of the mining right shall comply with the direction.
(4) Any person who contravenes subsection (3) shall be guilty of an offence and
shall be liable on conviction to a fine not exceeding twenty thousand penalty units or to
imprisonment for a term not exceeding two years, or to both.

105. (1) The Director or an authorised officer may at any time enter upon any
prospecting area or mining area, or any premises or working thereon or thereunder (other
than a dwelling-house) for the purpose of-

(a) generally inspecting any such area, premises or workings and examining
prospecting or mining operations or the treatment of minerals being
performed or carried out;

(b) ascertaining whether or not the provisions of this Act or the regulations, or
the conditions of a mining right, are being complied with;

(c) ascertaining whether or not any nuisance exists upon any such area, land
or mine or in any such premises or workings;

(d) giving directions, and taking steps, to enforce any provision of this Act or
the regulations, or to abate or remove any nuisance;

(e) taking soil samples or specimens of rocks, ore concentrates, railings or
minerals situated upon any such area, premises or workings for the
purpose of examination or assay;

(f) examining books, accounts, vouchers, documents, maps, drilling logs, or
records of any kind; or

(g) obtaining any information which he may deem necessary for the
administration of this Act.

(2) The Director or an authorised officer may, at all reasonable times, inspect and
take copies of any books, accounts, vouchers, documents, maps, drilling logs or records
of any kind, kept by the holder of a mining right, under or for the purposes of this Act, the
regulations or the mining right.

(3) The holder of a mining right shall provide such reasonable assistance (including
the provision of necessary means of transport) as is required to enable the Director or an
authorised officer to exercise or perform any power or function under this section.
(4) Any person who, without reasonable excuse, hinders or obstructs the Director or an authorised officer in the exercise or performance of any power or function under this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

106. (1) Any person who-

(a) in any application under this Act;

(b) in any report, return or affidavit submitted for the purposes of this Act; or

(c) in purported compliance with a requirement under this Act to furnish any information, make any statement or answer any question;

furnishes information or makes any statement that he knows is false or misleading in a material particular, shall be guilty of an offence.

(2) Any person who, in pursuance of a requirement under this Act, produces or makes available a document, or any books, that he knows to be false or misleading in a material particular shall be guilty of an offence.

(3) Any person who, with intent to deceive-

(a) places or deposits, or is accessory to the placement or deposit of, any mineral or material in any place; or

(b) mingles or causes to be mingled with any sample of ore any substance which will enhance the value or in any way change the nature of the ore;

shall be guilty of an offence.

(4) A person convicted of an offence under this section shall be

(a) in the case of an individual, to a fine not exceeding twenty thousand penalty units or to imprisonment for a term not exceeding two years, or to both; or

(b) in the case of a body corporate, to a fine not exceeding fifty thousand penalty units.
107. If a body corporate is convicted of an offence under this Act, every person who-

(a) a Director of, or is otherwise concerned in the management of, the body corporate; and

(b) knowingly authorised or permitted the act or omission constituting the offence;

shall be deemed to have committed the same offence; and may be proceeded against and punished accordingly.

108. (1) The Minister may, by statutory instrument, make regulations for the better carrying into effect of this Act.

(2) In particular, and without prejudice to the generality of subsection (1), regulations may provide for-

(a) any matter which, in accordance with the foregoing provisions of this Act, is to be, or may be, provided for by statutory instrument or any matter which is to be, or may be, prescribed;

(b) the proper and efficient working of prospecting areas, mining areas and mines;

(c) the avoidance of wasteful mining practices or wasteful metallurgical practices, as described or specified in the regulations;

(d) the inspection of books and documents;

(e) the regulation of all work and machinery connected with prospecting or mining so far as safety and the protection of life are concerned;

(f) the regulation of all matters relating to sanitation and health, including the establishment of cemeteries, in regard to mining areas;

(g) the reporting of cases of accident and death occurring on any prospecting area or mining area in connection with prospecting or mining operations;

(h) the demarcation of prospecting and mining areas;

(i) the circumstances and procedures for referring any matter for determination by an expert;
(j) the manner of making and dealing with applications under this Act;

(k) fees to be paid by the holder of a gemstone sales certificate;

(l) fees and annual charges to be specified under this Act.

(3) The Minister responsible for finance may, after consultation with the Minister, by statutory instrument, make regulations for the better carrying into effect of sections sixty-six to sixty-nine of this Act.

(4) Any regulations made under this Act may prescribe for any breach thereof a fine not exceeding twenty thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

(As amended by Act No. 8 of 1997)

109. (1) The Mines and Minerals Act is hereby repealed.

(2) The savings and transitional provisions set out in the Sixth Schedule shall have effect as a consequence of the repeal effected by this section.
The Laws of Zambia

FIRST SCHEDULE

(Section 9)

Employment
Energy and Supply
Exchange Control
Taxation, royalty and taxes
Environmental protection and pollution control

(As amended by Act No. 41 of 1996)
SECOND SCHEDULE

(Section 73)

RENT AND DEEMED TURNOVER IN RESPECT OF GEMSTONE LICENCE

<table>
<thead>
<tr>
<th>Year of Duration of Right</th>
<th>Rent per Hectare (Fee Units)</th>
<th>Deemed Turnover per Hectare (Fee Units)</th>
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</tr>
<tr>
<td>Year 8 and subsequent years</td>
<td>2,00</td>
<td>40,00</td>
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(As amended by Act No. 41 of 1996)
MINING ADVISORY COMMITTEE

1. (1) The Mining Advisory Committee shall consist of-
   (a) the Director, who shall be the Chairman;
   (b) the Director of Geological Survey;
   (c) the Director of Mines Safety;
   (d) one person nominated by the Minister responsible for the environment;
   (e) one person nominated by the Minister responsible for lands; and
   (f) one person nominated by the Attorney-General.
   (2) The Minister shall appoint the members of the Committee.

2. (1) The Minister shall nominate an alternate member for each of the members referred to in clauses (a), (b) and (c) of subparagraph (1) of paragraph one.
   (2) The Ministers responsible for the environment and lands, and the Attorney-General, shall each nominate an alternate member for the members nominated by them under paragraph one.
   (3) An alternate member shall be entitled to act in place of the substantive member if the latter is for any reason unable to attend a meeting.

3. In the exercise and performance of their powers and functions as members of the Committee, the Chairman and each of the members shall act in accordance with his own judgment and shall not be subject to any direction from any other person or authority.

4. (1) The committee shall meet as often as is necessary to perform its functions and at such times and places as the Chairman directs.
   (2) At a meeting of the Committee-
     (a) four members shall form a quorum;
     (b) the Chairman, or in his absence a member elected by the members present, shall preside;
     (c) all matters arising shall be decided by a majority of votes;
     (d) the Chairman or other person presiding at the meeting shall have a deliberative vote and, in the event of an equality of votes, also a casting vote.

5. The Committee shall regulate its own procedure.  

(As amended by Act No. 41 of 1996)
INCOME TAX DEDUCTIONS FOR MINING INVESTMENTS

1. (1) For the purposes of this Schedule-
"capital expenditure", in relation to mining or prospecting operations, means expenditure-
   (a) on buildings, works, railway lines or equipment;
   (b) on shaft sinking, including expenditure on sumps, pumps chambers, stations and ore bins accessory to a shaft;
   (c) on the purchase of or on the payment of a premium for the use of any patent, design, trademark, process of other expenditure of a similar nature;
   (d) incurred prior to the commencement of production or during any period of non-production on preliminary surveys, boreholes, development or management; or
   (e) by way of interest payable on any loan for mining or prospecting purposes;
"Commissioner-General" means the Commissioner-General appointed under the Zambia Revenue Authority Act;
"deemed loss" means a deduction allowable in accordance with paragraph three;
"equity", in relation to a company limited by shares, means-
   (a) issued ordinary share capital or stock, but only to the extent that such share capital or stock is paid up;
   (b) issued, deferred, preferred, preference or other priority share capital or stock, but only to the extent that such share capital or stock is paid up and provided that such share capital or stock carries no rights of early repayment on demand;
(c) capital reserves in so far as they are not capable of distribution except either by way of diminution of capital or by addition to issued capital; and

(d) revenue reserves to the extent only that they shall have remained constant throughout the previous twelve months;

but shall not include-

(i) loan stock or debentures whether carrying conversion rights or not;
(ii) loans at call and short notice; or
(iii) bank overdrafts or other drawing facilities;

"estimate of life", in relation to a mine, means the number of years, not exceeding-

(a) in the case of a mine operated for the purpose of producing lead or zinc, ten years; and
(b) in the case of any other mine, twenty years; during which mining operations at the mine may be expected to continue after the beginning of the charge year;

"expenditure" means net expenditure after taking into account any rebates, returns or recoveries from expenditure;

"pre-production expenditure" means capital expenditure incurred in charge years prior to the production charge year;

"production commencement date", in relation to a mine, means the latest of any of the following dates:

(a) the date on which the mine first commenced regular production;
(b) where the mine, having previously been in production, was closed down and then re-opened, the date on which it first recommenced regular production;
(c) where the mine has changed ownership and has been reorganised with substantially new development and new plant, the date on which it first commenced regular production after such reorganisation;

"production charge year" means the charge year in which a 1953, 1970 or 1975 new mine first commences or recommences regular production;

"prospecting expenditure" means expenditure incurred in relation to prospecting operations, including any capital expenditure incurred in connection with such operations, and such expenditure as the Commissioner-General determines to be ancillary to expenditure on prospecting operations;

"1953 new mine" means a mine whose production commencement date is later than 31st March, 1953 but not later than 31st March, 1970;

"1970 new mine" means a mine whose production commencement date is later than 31st March, 1970 but not later than 31st March, 1975;

"1975 new mine" means a mine whose production commencement date is later than 31st March, 1975.

(2) Words and expressions defined in the Income Tax Act shall, if used in this Schedule, have the same meaning as in that Act.

2. Where a deduction is allowed in respect of capital expenditure under this Schedule, any deduction that would, but for this paragraph, be allowable under the Income Tax Act in respect of the same capital expenditure is hereby disallowed.
3. (1) Subject to the other provisions of this paragraph, the amount of prospecting expenditure incurred by a person in a charge year in respect of an area in Zambia over which a mining right has been granted shall be allowed as a deduction to that person.

(2) A company that is entitled under this paragraph to a deduction in respect of expenditure may, by notice in writing given to the Commissioner-General within twelve months after the end of the charge year in which the expenditure is incurred, irrevocably elect to forego the deduction in favour of its shareholders; whereupon the deduction shall be allowed, not to the company but to its shareholders instead, in proportion to the calls on shares paid by them during the relevant accounting period or in such other proportions as the Commissioner-General having regard to any special circumstances, may determine:

Provided that this sub-paragraph shall not apply to a company carrying on mining operation in Zambia.

(3) Where-

(a) a company (in this sub-paragraph called "the parent company") is entitled under this paragraph to a deduction; and

(b) subsequent to the date the expenditure is incurred, a new company, of which the parent company is a shareholder, is incorporated for the purpose of-

(i) continuing the prospecting operations of the parent company; or

(ii) carrying on mining operations in the Republic; and

the parent company may, by notice in writing given to the Commissioner-General within twelve months after the incorporation of the new company, irrevocably elect to forego the deduction in favour of the new company; whereupon the deduction shall be allowed, not to the parent company but to the new company instead;

Provided that this sub-paragraph shall not apply-

(i) to a company carrying on mining operations in Zambia; or

(ii) in respect of expenditure incurred after the new company takes over the prospecting operations of the parent company or commences to carry on mining operations.

(4) A deduction allowable under this paragraph shall be deemed to be a loss and shall be allowed, in accordance with section thirty of the Income Tax Act as a loss incurred-

(a) in the case of sub-paragraphs (1) and (2), in the charge year in which the expenditure is incurred; and

(b) in the case of sub-paragraph (3), in the charge year in which the new company takes over the prospecting or exploration operations or commences to carry on mining operations:

Provided that where the deemed loss exceeds the income of person for the charge year in which it is incurred, the excess shall be deemed to be a loss incurred in the following charge year and so on from year to year until the deemed loss is extinguished.

(5) In computing a loss incurred by the operator of a 1975 new mine in any charge year, prospecting expenditure and capital expenditure incurred in relation to the mine and allowable as a deduction shall be deemed to be deducted last.
4. (1) Subject to the other provisions of this paragraph and the provisions of paragraph five, a deduction shall be allowed in ascertaining the gains or profits from the carrying on of mining operations by any person in a charge year in respect of the capital expenditure incurred by the person on a mine which is in regular production in the charge year.

(2) The deduction to be allowed for the charge year in the case of 1975 new mine shall be-

(a) where the charge year is the production charge year, the sum of the pre-production expenditure, to the extent that such expenditure has not already been allowed as a deduction, and the capital expenditure incurred in the production charge year:

Provided that where, on the last day of any charge year prior to the production charge year, the total of the preproduction expenditure incurred in such charge year exceeds the amount remaining after deducting from the quilty of the company on such day the prospecting expenditure incurred in such charge year and in all previous charge years on such day and allowable as a deemed loss, the excess shall not be so increased for such charge year; and

(b) where the charge year is a charge year subsequent to the production charge year, the capital expenditure incurred in such charge year.

(3) The deduction to be allowed for a charge year in the case of 1970 new mine shall be:

(a) where the charge year is the production charge year, the total capital expenditure incurred on the mine up to the end of the production charge year, to the extent that such expenditure has not already been allowed as a deduction; and

(b) where the charge year is a charge year subsequent to the production charge year, the capital expenditure incurred on the mine in such charge year.

(4) The deduction to be allowed for any charge year in the case of a 1953 new mine shall be the sum of-

(a) the fraction of any unredeemed capital expenditure on the mine at the commencement of the charge year ended 31st March, 1971, that would have been allowed in such charge year under the provisions of paragraph twenty-three of Part VI of the Fifth Schedule to the Income Tax Act, as in force on 31st March, 1970, had those provisions not been repealed;

(b) the capital expenditure incurred on the mine in such charge year.

(5) The deduction to be allowed for any charge year in the case of any other mine shall be the sum of-

(a) one-twentieth or, in the case of a mine operated for the purposes of producing lead or zinc, one-eighth of the balance of unredeemed capital expenditure on the mine, including any balance on which deductions were previously claimed under Parts I to V of the Fifth Schedule to the Income Tax Act, at the commencement of the charge year ended 31st March, 1971, until such balance is extinguished; and

(b) an amount obtained by taking the sum of-

(i) the balance of the capital expenditure on the mine incurred after 22nd September, 1973 and unredeemed at the commencement of such charge year; and

(ii) the capital expenditure on the mine incurred in such charge year;

and dividing the sum so obtained by the number of years in the approved estimate of the life of the mine:

Provided that where separate and distinct mining operations are carried on in mines which are not contiguous, the deduction allowable shall be calculated separately according to the approved estimate of the life of each mine.

(6) For the purposes of sub-paragraph (5), the approved estimate of the life of the mine at the commencement of the charge year shall be based on the certified estimates of ore reserves of the mine and supported by calculations showing how the estimates have been arrived at as submitted in writing by the person carrying on the mining operations:

Provided that if the Commissioner-General does not approve the estimate of the life of the mine as submitted, the approved estimate of the life of the mine shall be as the Commissioner-General determines.

(7) The deductions for any interest on borrowings to be allowed in any charge year shall not exceed the interest on any borrowings in excess of a loan-to-equity ratio of 2:1.

5. (1) Where a person is carrying on mining operations in a mine which is in regular production and is also the owner of, or has a right to work, a mine which is not contiguous with the producing mine and from which the person has a loss in the charge year, the amount of such loss may be deducted in ascertaining the gains or profits from his mining operations in that charge year:

Provided that the amount of tax which would otherwise be payable by such person in that charge year is not reduced by more than twenty per centum as a result of this deduction.

(2) An order made by the Minister under this paragraph may differentiate between person or classes of persons, may at any time by a like order be revoked and may be made or revoked retrospectively.
6. Where a mine ceases regular production due to the expiration of the life of the mine, or where the mining right has ended, or for any other reason acceptable to the Commissioner-General, and the person who was carrying on the mining operations irrevocably so elects, by notice in writing to the Commissioner-General, within twelve months after the end of the charge year in which the mine ceased regular production, the deduction allowable in ascertaining the gains or profits from the carrying on of the mining operations in respect of the capital expenditure on the mine for each of the last six charge years in which the mine was in regular production shall be an amount arrived at by taking the sum of-

(a) the unredeemed capital expenditure on the mine at the commencement of the six charge years; and
(b) the capital expenditure on the mine incurred in the six charge years; and dividing the sum so obtained by six.

7. Subject to the provisions of paragraph eight, when a change in the ownership of a mine takes place, the consideration for the assets which qualify, for the purposes of this Schedule, as capital expenditure shall, for income tax purposes-

(a) be allowable as capital expenditure incurred by the new owner; and
(b) be deemed to be a capital recovery by the previous owner in the charge year in which the change takes place.

8. (1) Whenever there is a change in the ownership of a mine, this paragraph shall have effect in relation to the sale of any property in respect of which any deductions have been allowed under this Schedule in any case where either-

(a) the buyer has control of the seller, or the seller has control of the buyer, or some other person has control of both; or
(b) the Commissioner-General determines, by reference to the consideration given for the property, that the same was not at arm's length.

(2) Where the property is sold at a price other than what it would have fetched if sold in the open market, then, subject to the provisions of sub-paragraph (3), the same consequences shall ensue as would have ensued if the property had been sold for the price which it would have fetched if sold in the open market.

(3) Where the sale is one to which clause (a) of sub-paragraph (1) applies and the parties to the sale irrevocably so elect, by notice in writing to the Commissioner-General, then sub-paragraph (2) shall not have effect but, instead, the same consequences shall ensue as would have ensued if the property had been sold for a sum equal to the residue of capital expenditure on the property still unredeemed immediately before the sale.

(As amended by Act No. 41 of 1996)
FIFTH SCHEDULE

(Section 104)

REPORTS, RECORDS AND INFORMATION

1. (1) Subject to sub-paragraph (2), the holder of a prospecting licence-
   (a) shall keep, at the address referred to in section one hundred and four, to the satisfaction of the Minister, full and accurate records of his prospecting operations, which shall show-
      (i) boreholes drilled;
      (ii) strata penetrated, with detailed logs of the strata;
      (iii) minerals discovered;
      (iv) the results of any seismic survey or geochemical or geophysical analysis;
      (v) the results of any analysis or identification of minerals;
      (vi) the geological interpretation of the records maintained under items (i) to (v) inclusive;
      (vii) the number of persons employed;
      (viii) other work done in connection with the prospecting licence;
      (ix) costs incurred; and
      (x) such other matters as may be prescribed by the Minister by statutory instrument.

   (2) The Minister may, on application made to him by the holder of a prospecting licence, dispense with or modify all or any of the requirements of sub-paragraph (1).

2. The holder of a large-scale mining licence shall-
   (a) keep, at the address referred to in section one hundred and four, complete and accurate technical records of his operation in the mining area, in such form as the Minister may approve;
   (b) keep at that address copies of all maps, geological reports, including interpretations, mineral analyses, aerial photographs, ore logs, analyses and tests and all other data obtained and compiled by the holder in respect of the mining area;
   (c) keep at that address accurate and systematic financial records of his operations in the mining area and such other books of account and financial records as the Minister may require and, if the holder is engaged in any other activity not connected with his mining operations, maintain separate books of accounts in respect of his mining operations;
   (d) submit to the Minister such reports, records and other information as the Minister may, from time to time, require concerning the conduct of operations in the mining area; and
   (e) furnish the Minister with a copy of every annual financial report within three months of the end of each financial year showing the profit or loss for the year and the state of the financial affairs of the holder at the end of each financial year.

3. The holder of a prospecting permit shall keep at the address referred to in section one hundred and four the records specified in paragraph 1 of this Schedule or such other records as may be endorsed on his permit.

4. The holder of a small-scale mining licence, a gemstone licence or artisan's mining right shall keep at the address referred to in section one hundred and four such records, and furnish to the local office the reports specified in paragraph 2 of this Schedule or such other records and reports as may be endorsed on the licence or permit.
5. Every holder of a mining right shall keep and preserve, for such period as may be prescribed by the Minister by statutory instrument, the records so prescribed in relation to the protection of the environment.

6. (1) Where-

(a) a mining right terminates by abandonment, curtailment, suspension, cancellation or other action under this Act; or

(b) the term of a licence granted under Part III expires;

the person who was the holder of the mining right immediately before the termination or expiration shall deliver to the Minister-

(i) all records which the former holder maintained under this Act with respect to the licence;

(ii) all plans or maps of the area of land that was subject to the mining right and which were prepared by or on the instructions of the former holder; and

(iii) such other documents as the Minister may, by notice given to the former holder require him to so deliver.

(2) Except as provided by sub-paragraph (1), where a mining right granted under Part IV or Part VII terminates or expires, the person who was the holder of the right shall deliver to the local office all records which he was required to keep under this Schedule and all plans or maps of the prospecting or mining operations on such area.

(As amended by Act No. 41 of 1996)
SAVINGS AND TRANSITIONAL PROVISIONS

1. In this Schedule-
   "appointed date" means the date on which this Act comes into force;
   "interim period" means a period beginning with the appointed date and ending on the first anniversary of the appointed date;
   "interim licence" means a licence that a person is deemed, by the operation of this Schedule, to hold, and "interim licensee" shall be construed accordingly;
   "repealed Act" means the Mines and Minerals Act, repealed by this Act.

2. Any person who, immediately before the appointed date, was the holder of a mining right or a mining permit under the repealed Act shall be deemed to have become on the appointed date the holder of an interim licence.

3. (1) During the interim period, the holder of an interim licence is authorised to carry on the operations which he was authorised to carry on immediately before the appointed date under the mining right or mining permit of which he was the holder; and in carrying on those operations the holder of the interim licence shall in respect of those operations enjoy the same rights and be subject to the same liabilities as if the repealed Act were still in force.
   (2) At any time during the interim period, the holder of an interim licence may apply for and, subject to this Schedule, shall be granted a mining right under this Act.

4. (1) The holder of an interim licence who, immediately before the appointed date, held a prospecting licence or an exploration licence under the repealed Act shall be entitled, at his election, to apply for and be granted under this Act, in respect of the area covered by his interim licence-
   (a) a prospecting licence;
   (b) a prospecting permit;
   (c) a gemstone licence;
   (d) a small-scale mining licence; or
   (e) a large-scale mining licence.
   (2) A prospecting licence granted under this paragraph shall be deemed to have been granted on the date on which the licence under the repealed Act was granted, and shall remain in force, subject to this Act, for a period equal to the unexpired period of the licence held under that Act.
   (3) A prospecting permit, gemstone licence or small-scale mining licence granted under this paragraph shall run from the date of its grant.
   (4) On the renewal of a prospecting licence granted under this paragraph, the provisions of section fifteen of this Act relating to relinquishment shall have no application.
5. (1) The holder of an interim licence who, immediately before the appointed date, held a mining licence under the repealed Act (other than a mining licence for building or industrial minerals under Part VIII of that Act) shall be entitled at his election to apply for and be granted, in respect of the area covered by his interim licence-

(a) a large-scale mining licence;
(b) a small-scale mining licence; or
(c) a gemstone licence.

(2) A large-scale mining licence granted under this paragraph shall-

(a) remain in force, subject to this Act, for a period equal to the unexpired period of the mining licence held under the repealed Act which remained at the appointed date;
(b) require compliance with the programme of development and mining operations which was appended to the licence under the repealed Act;
(c) require compliance with an environmental plan drawn up by the holder of the interim licence which shall be approved by the Minister and form part of the conditions of the licence if it meets the requirements of this Act:

Provided that, if the Minister considers that the environmental plan does not meet those requirements, the matter or matters in dispute shall be referred to an independent expert chosen by agreement between the Minister and holder of the interim licence, whose decision shall be binding; and in the event that the Minister and the holder of the interim licence are unable to agree on the choice of the expert, the expert shall be chosen by the High Court.

(3) A small-scale mining licence granted under this paragraph shall-

(a) remain in force, subject to this Act, for such period, not exceeding ten years, as may be applied for by the holder of the interim licence; and
(b) require compliance with the programme of development and mining operations which was appended to the mining licence under the repealed Act.

(4) A gemstone licence granted under this paragraph shall-

(a) be granted for such period, not exceeding ten years, as may be applied for by the holder of the interim licence, provided that for the purpose of calculating the rent payable under section seventy-three of this Act, the licence shall be treated as though the term of the licence had commenced one year before the date on which the licence was granted; and
(b) require compliance with the programme of development and mining operations which was appended to the mining licence under the repealed Act.

(5) Where the holder of an interim licence who, immediately before the appointed date, held a mining licence under the repealed Act elects to apply for a small-scale mining licence or a gemstone licence under this Act, the Minister may, if the holder of the interim licence has before the appointed date been carrying on mining operations on a substantial scale, reject the application for a small-scale mining licence or a gemstone licence and require the holder of the interim licence to apply for a large-scale mining licence, and in any such case the provisions set out in this paragraph shall apply as though the holder of the interim licence had elected to apply for a large-scale mining licence.

6. (1) The holder of an interim licence who, immediately before the appointed date, held a mining licence or a mining permit for building or industrial minerals granted under Part VIII of the repealed Act may apply for, and shall be granted, in respect of the area covered by his interim licence, a small-scale mining licence under Part IV of this Act.

Holders of mining licences for building or industrial materials under the repealed Act

(2) A small-scale mining licence granted under this paragraph-

(a) shall be granted for such period as may be applied for, but not exceeding the unexpired period of the mining licence which remained at the appointed date, or ten years, whichever is greater; and
(b) shall require compliance with such conditions as may have been attached to the licence or permit granted under the repealed Act.

(As amended by Act No. 41 of 1996)
ARRANGEMENT OF REGULATIONS

PART I PRELIMINARY

Regulation
1. Title
2. Interpretation

PART II TRADING IN RESERVED MINERALS

3. Trading in and possession of reserved minerals
4. Application for reserved minerals trader's licence
5. Reserved Minerals Trader's Licensing Committee
6. Publication of names of applicants
7. False statement by applicant for licence
8. Notification of grant or rejection of application
9. Prohibition against issue of licence
10. Fee on issue or renewal of licence
11. Form of licence
12. Place of business
13. Register of transactions
14. Summary fine
15. Valuation certificate for reserved minerals destined for export
16. Purchase from or sale to unauthorised persons
17. Power to cancel licence

SCHEDULE
PART I PRELIMINARY

1. These Regulations may be cited as the Mines and Minerals (Trading in Reserved Minerals) Regulations.

PART II TRADING IN RESERVED MINERALS

3. (1) Subject to these Regulations, a person shall not-

(a) buy, deal in, or receive by way of barter or pledge, either as principal or agent, any reserved mineral, unless he is

   (i) licensed or authorised under this Part to trade in reserved minerals; or

   (ii) the operator of a registered lapidary.
(b) sell, offer, display for sale, barter or pledge, either as principal or agent, any reserved mineral unless-

(i) subject to the provisions of section forty of the Act, he is the holder of a valid prospecting or exploration licence relating to that reserved mineral;

(ii) the reserved mineral is won or recovered by him from land on which he is lawfully mining for reserved minerals; or

(iii) he is authorised under this Part to sell or dispose of that reserved mineral.

(c) possess any reserved mineral unless-

(i) he is authorised under these Regulations to be in possession of that reserved mineral; or

(ii) he has a permit.

(2) The Committee may grant, in writing, authority to trade and possess reserved minerals to any person who is not a citizen of Zambia or is not ordinarily resident in Zambia for a period of two years.

(3) The authority granted under sub-regulation (2) shall convey any right in respect of the grant of a licence.

(4) Any person who contravenes sub-regulation (1) shall be guilty of an offence and liable upon conviction to a fine not exceeding twenty thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

4. (1) Subject to this Part, any person may apply to the Committee for, and obtain a licence.

(2) An application made under sub-regulation (1) shall be in Form 1 set out in the Schedule.

5. (1) There shall be a reserved minerals traders' licensing committee which shall consist of-

(a) Chairman;

(b) the Engineer;

(c) the Director; and
(d) any other two persons appointed by the Minister.

(2) The Chairman shall be appointed by the Minister from outside the civil service and shall preside at all meetings of the Committee.

(3) In the absence of the Chairman, the members present at a meeting of the Committee shall choose a chairman from amongst themselves for the purposes of that meeting.

(4) Three members of the Committee shall form a quorum and the chairman at any meeting shall have a casting as well as a deliberative vote.

(5) The Minister shall appoint the Secretary to the Committee.

6. (1) The Committee shall not consider an application for the grant or renewal of a licence, unless the applicant has given at least fourteen days' notice of his intention to make the application.

(2) The notice referred to in sub-regulation (1) shall-

(a) be made in the prescribed form;

(b) include an address at which service of notices and documents may be made; and

(c) be published in the *Gazette* and in two consecutive issues of a national newspaper.

(3) The period of fourteen days referred to in sub-regulation (1) shall be calculated from the date of the 1st publication of the notice.

7. (1) If any person applying for a licence under this part, knowingly makes or causes to be made a statement which is false in any material particular, he shall be guilty of an offence and liable upon conviction to a fine not exceeding two thousand penalty units.

(2) A licence or permit issued to a person convicted for contravening sub-regulation (1) shall be null and void.
8. (1) The Committee shall within thirty days, notify the applicant of the result of the application.

(2) Where the application is granted, the notification of the grant shall include terms and conditions on which the application is granted and shall require the applicant to accept the conditions within such time as the Committee may specify.

(3) Where the applicant-

(a) accepts within the time specified by the Committee, the terms and conditions on which the application is granted, the Committee shall issue a licence to him; or

(b) fails to notify the Committee within the time specified under paragraph (a), his application shall lapse.

(4) If an applicant is dissatisfied with the decision of the Committee he may, within thirty days of being notified of that decision, appeal to the High Court.

9. (1) Subject to these Regulations, a licence shall not be granted to or held by-

(a) a person-

(i) under the age of eighteen years; or

(ii) who is or becomes an undischarged bankrupt.

(b) a company-

(i) unless it has been incorporated under the Companies Act;

(ii) which is in liquidation.

(2) A licence shall-

(a) not be transferrable;

(b) be terminated where the holder-

(i) is adjudged or declared bankrupt;

(ii) goes into liquidation; or

(iii) dies.
(3) A person applying for a licence shall lodge with the Committee a certificate in Form 4 set out in the Schedule under the hand of a police officer of or above the rank of Sub-Inspector, together with sufficient sureties who have entered into a recognizance, which recognizance shall be in Form 3 set out in the Schedule.

(4) In this regulation, "liquidation" shall not include a liquidation which forms part of a scheme for the reconstruction or amalgamation of the holder.

10. An applicant shall pay, for every issue or renewal of a licence, a fee of one hundred thousand kwacha per year or part thereof.

11. The licence shall be in Form 2 set out in the Schedule and shall expire on the 31st December of each year.

12. (1) The applicant's office or place of business shall be endorsed on the applicant's licence.

(2) A person who holds a licence shall inform the Committee of any changes of his business premises.

13. (1) A person who holds a licence shall keep or cause to be kept a true and correct register relating to the details of reserved minerals received, purchased, imported, sold or exported.

(2) The register relating to the details of reserved minerals received, purchased or imported shall be in Form 5 set out in the Schedule and that of reserved minerals sold or exported shall be in Form 6 set out in the Schedule.

(3) A person who holds a licence shall within fifteen days after the end of every month forward to the Committee a true copy of all entries in the register for the previous month, together with a declaration stating that the entries are correct.

14. (1) A person who contravenes regulation 13 shall be made to appear before the Committee and if found guilty of an offence shall be liable to a fine not exceeding fifty thousand penalty units.

(2) The fine referred to in sub-regulation (1) shall be paid to the Committee.

(3) The moneys received from fines shall be paid into the general revenues of the Republic.
(4) A person who fails to pay the fine imposed under sub-regulation (1) within ninety days from the date of such imposition shall have his licence cancelled by the Committee.

15. (1) Any reserved mineral destined for export, shall be valued by an independent Government approved valuer who shall issue a valuation certificate in Form 7 set out in the Schedule.

(2) An application to the Committee for registration as a Government approved valuer, shall contain the following information-

(a) the full name and business address of the applicant; and

(b) copies of academic qualifications and professional experience.

16. (1) A person shall not buy or receive by way of barter, pledge or otherwise any reserved mineral from any person not authorised under paragraph (a) of sub-regulation (1) of regulation 3 to trade in reserved minerals.

(2) A person not authorised to trade in reserved minerals shall not sell or offer or display for sale, barter, pledge or otherwise dispose of or deliver any reserved mineral to any person not authorised under paragraph (b) of sub-regulation (1) of regulation 3 or any other provision of this Part to buy or receive that reserved mineral.

(3) Any person who contravenes sub-regulations (1) and (2) shall be guilty of an offence and liable upon conviction to a fine not exceeding two thousand penalty units.

17. (1) The Committee may, cancel a licence if it is satisfied that any licensed trader is or has been on reasonable grounds suspected of being engaged in illicit trade in reserved minerals or has contravened these Regulations or that Act.

(2) The notice to cancel the licence shall be from the date specified in the notice, which shall not be less than one month from the date of giving such notice.

(3) Any person whose licence is cancelled under sub-regulation (1) may appeal to the High Court.
APPLICATION FORM FOR A RESERVED MINERALS TRADER’S LICENCE
The Laws of Zambia

The Mines and Minerals (Trading in Reserved Minerals) Regulations

Type(s) of Reserved mineral: ................................................................................................................................

A. PARTICULARS OF APPLICANT (other than company, co-operative or association)

(1) Full names of applicant

(a) Surname...........................................................................................................................................(Maiden Name)................................................................................................................................

(b) Other names...........................................................................................................................................

(c) Place and date of birth..........................................................................................................................

(2) Address of applicant

(a) Residential address..............................................................................................................................Telephone No. ............................................

(b) Business address...............................................................................................................................Telephone No. ..................Fax: No. ..................

(3) Identity documents

(a) NRC No. ..............................................................................................................................................Date/place of issue..........................................................................................

(b) Passport No. .........................................................................................................................................Date/place of issue..........................................................................................

(c) Nationality...........................................................................................................................................

(d) Period resident in Zambia....................................................................................................................

B. PARTICULARS OF ORGANIZATION (company or association)

(4) (a) Name of Company Association....................................................................................................

(b) Location and postal address of Company/Association........................................................................

(c) Nationality...........................................................................................................................................

(d) Address of registration office in Zambia............................................................................................

(e) Date of incorporation............................................................................................................................

(f) Nominal capital......................................................................................................................................

(g) Paid up capital.....................................................................................................................................

(h) Shareholders (owning more than 5 percent of paid up capital)

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<thead>
<tr>
<th>Full Name</th>
<th>Shares held</th>
<th>Nationality</th>
<th>NRC/Passport No.</th>
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<td>(v).................</td>
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</table>

(i) Full name and nationality of Chief Executive..........................................................................................

(j) Full name and nationality of Company Secretary.....................................................................................

C. PARTICULARS OF THE CO-OPERATIVE

(5) (a) Name and address of Co-operative

........................................................................................................................................Fax..............Telex..............

(b) Registration Certificate No................................................................................................................

(c) Date and place of registration................................................................................................................

(d) Share capital (nominal)..........................................................................................................................

(e) Share capital (paid up)............................................................................................................................

(f) Full names of

<table>
<thead>
<tr>
<th>Member</th>
<th>Nationality</th>
<th>NRC/Passport No.</th>
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Copyright Ministry of Legal Affairs, Government of the Republic of Zambia
RESERVED MINERALS TRADER'S LICENCE

(Part II)

Mines and Minerals (Trading in Reserved Minerals) Regulations

WHEREAS ........................................................................................................................................
of Plot No. ................. Road: ............... Town: ................
Postal address........................................................................................................................................
Telephone No. ................................................................................................................................. Telex No. .................................................................
Telefax No. ........................................................................................................................................ has this......................................................day
of........................................................................19.............been duly licensed to trade in the minerals specified below:
..........................................................................................................................

Chairman

Expiry date: 31st December, 19........

*Not Transferable

NB-Applicants are advised to lodge their application for renewal of this licence at least sixty days before the date of expiry.

ENDORSEMENT OF BUSINESS ADDRESS, ADDITIONAL ADDRESSES OR CHANGES THEREOF
RECOGNIZANCE

The Mines and Minerals (Trading in Reserved Minerals) Regulations

On the ........................................................................................................ day of ................................................................. 19........... appeared before me ........................................................ Magistrate of the District of ........................................................................................................................ and acknowledge themselves to owe the Republic to which the said ....................................................................................................... the sum of one hundred thousand Kwacha and the said ............ and .......... each the sum of one hundred thousand Kwacha to be respectively made and levied of their several goods, chattels, lands and tenements to the use of the Republic if the said ................................................................. shall fail in performing the conditions underwritten.

The condition of this recognizance is that if the said ................................................................. shall strictly conform to and abide by all and singular the provisions of the Mines and Minerals (Trading in Reserved Minerals) Regulations during the time the licence to be obtained by him under these Regulations shall be in force, then this recognizance shall be null and void or else shall remain in full force and effect.

The said ................................................................. and the said ................................................................. and the said ........................................................................................................... do hereby further jointly and severally agree that in the event of the said ................................................................. being convicted of contravening any provision of these Regulations this recognizance shall ipso facto become at once executable without the necessity of further process just as if judgment had been obtained upon it.

Taken and acknowledged this day and year above written.

Proposed holder................................................................................................................................
Surety................................................................................................................................
Surety................................................................................................................................
Magistrate................................................................................................................................

Copyright Ministry of Legal Affairs, Government of the Republic of Zambia
The Mines and Minerals (Trading in Reserved Minerals) Regulations

RESERVED MINERALS TRADER'S CERTIFICATE

I, ...................................................................................................................................... Police Officer of .................................................................................................................................. do hereby certify that .................................................................................................................................. is a fit and proper person to receive a licence to buy and sell reserved minerals.

(Station).................................................................................................................................. Police Officer

(Date).................................................................................................................................. Rank...................................................................................................................................

(Assistant Inspector or above)

OFFICIAL STAMP
MONTHLY RECEIPTS RETURN

The Mines and Minerals (Trading in Reserved Minerals) Regulations

Full Name: ...........................................................................................................................................

Month: ........................................19..........

Address: ..............................................................................................................................................
MONTHLY SALES RETURN

The Mines and Minerals (Trading in Reserved Minerals) Regulations

<table>
<thead>
<tr>
<th>Date</th>
<th>Type of Reserved Mineral</th>
<th>Name of Buyer</th>
<th>Lot No.</th>
<th>Weight (g)</th>
<th>Value</th>
<th>Currency</th>
<th>Remarks</th>
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</tbody>
</table>

TOTAL

I. .................................................................................................................................do hereby solemnly and sincerely declare that the above is true and correct, and I make this certificate conscientiously believing the same to be true.

Signature: .................................................................

In what capacity signing ........................................................................................................

To be submitted to:
Chief Mining Engineer,
P.O. Box 31969,
Lusaka,
(2 copies)

Copyright Ministry of Legal Affairs, Government of the Republic of Zambia
VALUATION CERTIFICATE

The Mines and Minerals (Trading in Reserved Minerals) Regulations

Certificate No. ......................

<table>
<thead>
<tr>
<th>Lot No.</th>
<th>Description</th>
<th>Grade</th>
<th>Quantity</th>
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<th>Valuation</th>
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<td></td>
<td>Per Unit</td>
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</tbody>
</table>

TOTAL

Company: ................................................................................................................................
Address: ................................................................................................................................
Buyer: ................................................................................................................................
Examined by: ...........................................................................................................................

For Sale/Market Survey

For Ministry of Mines and Minerals Development
Approved/Not Approved for Export by:
Name: ........................................................................
Rank: ...........................................................................
Signature: ..............................................................
Date: ........................................................................

Receipts, Purchases, Imports

<table>
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<tr>
<th>Date</th>
<th>Type of Reserved Mineral</th>
<th>Name of Seller</th>
<th>Lot No.</th>
<th>Weight (g)</th>
<th>Value K</th>
<th>US$</th>
<th>Currency</th>
<th>Remarks</th>
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</table>

TOTAL

Copyright Ministry of Legal Affairs, Government of the Republic of Zambia
I, .............................................................................................................................................................................. do hereby solemnly and sincerely declare that the above is true and correct, and I make this certificate conscientiously believing the same to be true.

Signature: ........................................................................................................................................

In what capacity signing........................................................................................................................................

To be submitted to:
Chief Mining Engineer,
P.O. Box 31969,
Lusaka,
(2 copies)
THE MINES AND MINERALS ACT
THE MINES AND MINERALS (ENVIRONMENTAL) REGULATIONS

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**PART VII INSPECTION**

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FIFTH SCHEDULE
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TENTH SCHEDULE
ELEVENTH SCHEDULE

SECTION 76-MINES AND MINERALS (ENVIRONMENTAL) REGULATIONS

Regulations by the Minister

PART I PRELIMINARY

PRELIMINARY

Copyright Ministry of Legal Affairs, Government of the Republic of Zambia
1. These Regulations may be cited as the Mines and Minerals (Environmental) Regulations.

2. In these Regulations, unless the context otherwise requires-

"Council" means the Environmental Council of Zambia established by the Environmental Protection and Pollution Control Act; Cap. 204

"competent person" means any person appointed as such by a mine manager, to enforce these Regulations within a mine licence or permit area;

"contaminant" means a substance or physical agent or a combination of substances and physical agents that may contribute to, or create, pollution;

"decommissioned dump" means a dump where dumping operations have ceased but the dump has not been closed;

"developer" means a person who holds a licence or a permit issue under the Act and who undertakes a new mining operation or mining related project to repair or extend an existing mine or mining operation;

"Director" means the Director of Mines Safety appointed under section eighty-three of the Act;

"environmental impact statement" means a statement on the impact of the mining operation on the environment submitted to the Director under regulation 5;

"inspector" means a person appointed as an inspector under section eighty-three of the Act;

"project brief" means a report made by the developer including preliminary predictions of possible impacts of a proposed exploration, prospecting or mining operation on the environment and constituting the first stage in the environmental impact assessment process;

"proprietary information" means any information relating to any manufacturing process, trade secret, trademark, patent, copyright, breeder's right or formula protected by law or by any international treaty to which Zambia is a party;

"scheduled mine" means any mine specified in the First Schedule of the Pneumoconiosis Act and includes any scheduled place specified in the Second Schedule to that Act; Cap. 326
"toxic substance" means a poisonous gas, vapour, fume, dust or other substance that may cause injury, or adverse pathological changes, to human beings or animals or cause adverse physiological changes to the environment;

"underground" means beneath the surface of the ground to which access may be by way of a ramp, adit, raise, shaft or winze, but does not include an open pit or quarry;

"workings" means an excavation made for the purpose of searching of winning minerals;

PART II ENVIRONMENTAL IMPACT ASSESSMENT

3. (1) A developer shall prepare and submit six copies to the Director, of an environmental project brief before undertaking any prospecting, exploration or mining operations.

(2) For the purpose of prospecting exploration or mining operations under these Regulations a developer shall appoint a mine manager.

(3) A mine manager appointed under (2) shall employ a competent person.

(4) A competent person referred to in sub-regulation (2), shall-

(a) in relation to any duty or function, have adequate training and experience so as to enable him to perform such duty or function under these Regulations, without any avoidable danger to himself or any other person; and

(b) have the relevant academic qualifications in mining environmental management, recognised by the Director and should have a minimum of two years relevant industrial experience.

(5) The environmental project brief referred to in sub-regulation (1) shall be prepared by a competent person.

(6) The environmental project brief referred to in sub-regulation (1) shall contain the information set out in the First Schedule to which shall be attached-
(a) a brief statement on the impact of the prospecting, exploration or mining operations on the environment; and

(b) information on any remedial action, if any, to be implemented and complied with.

(7) The Director shall comment on the environmental project brief and shall, within ten days of receipt of such environmental project brief, make recommendations to the Council for consideration.

(8) The Council shall, within forty days of receipt of the environmental project brief, inform the Director of its decision.

(9) If the environmental project brief is incomplete, the Council shall send it back to the Director with comments, and the Director shall inform the developer referred to in sub-regulation (1), to re-submit the environmental project brief within twenty-one days.

(10) The Director shall write to the developer authorising him to develop the mine, if the mining operation has no significant impact on the environment.

(11) This regulation shall apply to-

(a) all proposed mining operations whether they are part of a previously proposed mining operation or not;

(b) any alterations, modifications or extensions of any existing mining operation, which the Director or the Council directs, based on the information contained in the project brief, that an environmental impact assessment should be prepared.

(12) The provisions of the Environmental Protection and Pollution Control (Environmental Impact Assessment) Regulations, 1997 relating to environmental project briefs shall apply to any application made under this regulation.

4. (1) Where the Director determines that the exploration, prospecting or mining operation is likely to have a significant impact on the environment, the Director shall request the developer to prepare an environmental impact statement in accordance with these Regulations.

(2) The environmental impact statement referred to in sub-regulation (1) shall be prepared by a competent person.
(3) The provisions of sub-regulation (3) of regulation 3 shall apply to this Regulation.

(4) The developer referred to in sub-regulation (1) shall submit nine copies of the Environmental impact statement to the Director within sixty days of receipt of the request from the Director.

(5) The environmental impact statement shall contain the information set out in the Second Schedule.

(6) If the environmental impact statement is unacceptable or significantly incomplete, the Director shall, within thirty days of receipt of such environmental impact statement, inform the developer, stating-

(a) the issues that need further consideration;

(b) that he should re-submit the environmental impact statement with alteration or corrections within thirty days of that request; or

(c) any further data to be collected.

(7) The Director shall register each environmental impact statement.

5. (1) The environmental impact statement shall contain-

Contents of environmental impact statement

(a) an executive summary of the impact of the exploration, prospecting or mining operation on the environment;

(b) an environmental management plan;

(c) a plan for rehabilitation and management; and

(d) the estimated cost of protecting the environment.

(2) The cost of protecting the environment referred to in paragraph (c) of sub-regulation (1) shall include-

(a) the operational cost of protecting the environment, covering the full life of the mine;
(b) the cost of rehabilitating the mine, covering the full life of the mine;

(c) the cost of decommissioning; and

(d) the operational cost of protecting the environment after the closure of the mine.

(3) The estimate of the cost of rehabilitating the mine shall be in the form set out in the Third Schedule.

(4) The developer shall make a commitment, in writing, to the Director to-

(a) meet the costs referred to in sub-regulation (2); and

(b) implement the environmental impact statement.

(5) The developer shall attach to the environmental impact statement-

(a) a map showing the location of the tailings, waste and overburden dumps;

(b) a map showing the area covering the mining right or permit and the location of the dumps in relation to the mine structures and the natural and physical features;

(c) the total tonnage and chemical composition of the materials dumped; and

(d) the statement of any rehabilitation work to be undertaken.

(6) The map referred to in paragraph (a) of sub-regulation (5) shall be-

(a) made of durable material;

(b) deposited at the office of the Director and updated by every thirteenth day of September of each year, and

(c) updated immediately on the cessation of mining, abandonment of a mine or at the request of the Director.
(7) A developer shall appoint a competent person to update the environmental impact statement once a year.

6. (1) A developer may apply to the Director for a partial or complete closure of a mine.

(2) The application referred to in sub-regulation (1) shall include an audit report on the environment surrounding the mine site which shall be prepared by an independent person.

(3) A mine site shall be closed within sixty days of the application referred to in sub-regulation (1), after all the conditions under these Regulations have been met.

(4) The Director shall issue a closure certificate for any mine closed and the mining right or permit or part thereof shall be cancelled by the Minister.

7. (1) The Director shall keep a record of an environmental impact statement, map or other document for any mine temporarily or permanently closed or abandoned.

(2) The records referred to in sub-regulation (1) shall be open for inspection by the public during normal working hours.

(3) Notwithstanding subsection (2), the records referred to in that subsection shall not include proprietary information.

8. (1) An Audit report on the impact on the environment of any exploration, prospecting or mining operation shall be prepared by two independent competent persons and shall contain information as to whether the environmental impact statement is being implemented and complied with.

(2) Two copies of the report referred to in sub-regulation (1) shall be submitted to the Director for evaluation.

(3) The Director shall, within thirty days of receipt of the report referred to in sub-regulation (2), notify the developer of any modifications the Director may consider necessary and shall state when the next audit on the impact of the exploration, prospecting or mining operation on the environment shall be conducted.
(4) The first audit on the impact of any exploration, prospecting or mining operation on the environment shall be conducted within fifteen months of commissioning such exploration, prospecting or mining operation.

9. (1) The Minister may, on such conditions as he may determine, exempt any prospecting, exploration or mining operation from the operation of any provision of these Regulations in accordance with the Act, or, where a developer is conducting any experiments or tests on such conditions as the Minister may determine.

(2) The Minister may delegate his function under sub-regulation (1) to the Director.

PART III MINE DUMPS

10. In this Part, unless the context otherwise required-

"active dump" means any dump where dumping operations are carried out and which has not been closed;

"classified dump" means a dump consisting of material deposited and accumulated-

(a) wholly or mainly in solid form where-

(i) the area covered is more than ten thousand square metres and the height is more than two metres;

(ii) the height of the dump is more than fifteen metres; or

(iii) the average gradient of the land covered by the material is more than one in twelve;

(b) mainly in solution or suspension where-

(i) any point is more than four metres above the level of any part of the adjacent land and is less than fifty metres from the perimeter of the dump; or

(ii) the volume is more than ten thousand cubic metres;
"water course" includes any river, stream, ditch, drain, sewer, culvert, cut, dyke, sluice and passage through which water, whether processed or not processed, flows.

11. (1) A developer shall apply and give thirty days notice to the Director, before commencing any dumping operations—

(a) specifying the material to be dumped;

(b) giving a description of the site; and

(c) stating whether the dump shall be a classified dump or not.

(2) A developer shall submit a report containing information set out in the Fourth Schedule to the Director which shall be prepared by a competent person and shall state the safety precautions and the other measures to be taken to protect the environment surrounding the dumping area, before dumping any material on that site.

(3) Where the Director approves the application referred to in subsection (1) the developer shall, not less than thirty days before he commences any dumping operations, submit to the Director a plan delineating the area where the dump will be situated, showing—

(a) one thousand metres from the boundary of the adjacent land at a scale of not less than 1/5,000, contoured to, oriented to, and co-related to, the mine surface plan;

(b) all the mining workings, whether abandoned or not, of any previous land movement, spring, well, watercourse or any other natural, geological or typographical feature which may affect the security or safety of the dump or which may be relevant to determine whether the land is suitable for dumping operations; and

(c) any surface installations.

(4) If the Director considers that the report referred to in subregulation (1) is not complete, he may direct the developer—

(a) conduct any additional survey tests, borehole or ground-water measurements; or
(b) meet any other conditions as he may think necessary and may request that a supplementary report be made by the person who prepared the previous report or from a competent person.

(5) If the Director does not approve the dumping application, he shall give reasons for such refusal within thirty days of receipt of such application.

(6) A developer who is aggrieved by a decision of the Director under this regulation, may appeal to the Minister.

12. (1) A developer shall make rules relating to any dumping operations carried out on an active classified dump specifying—

(a) the manner in which the dumping operations are to be carried out;

(b) the precautions to be taken to avoid polluting the environment;

(c) the safety precautions to be taken relating to the dump; and

(d) how pollution to the environment shall be monitored.

(2) A developer referred to in sub-regulation (1) shall appoint a competent person to inspect every classified dump and its surroundings, every week, to ensure that—

(a) the drainage and the ground between the dump and the inter-section of vertical planes drawn from the boundaries of any mine workings is less than five hundred metres from the nearest edge of that dump;

(b) the dumping rules are being complied with; and

(c) the measures to control pollution are being complied with.

(3) The competent person referred to in sub-regulation (1) shall make a report which shall be open for inspection by an inspector stating—

(a) any defect found in any records kept for that purpose at the mine;

(b) the progress made in implementing the provisions of the environmental impact assessment; and

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(c) any pollution to the environment not initially detected or predicted.

(4) The competent person referred to in sub-regulation (1), shall bring to the immediate attention of the developer, any pollution to the environment not initially detected or predicted, to the developer's attention and remedial action.

13. (1) A developer shall apply in writing to the Director to resume dumping on a decommissioned dump, not less than thirty days before commencing any dumping operation stating-

(a) the description of the site on which the dumping will be made; and

(b) the material to be dumped.

(2) The Director shall-

(a) determine whether the dump shall be a classified dump or not; or

(b) notify the developer referred to in sub-regulation (1) that the dump shall be a classified dump, if that dump may have an impact on the environment.

(3) Where the Director approves the application for dumping on a decommissioned dump such developer shall follow the procedure referred to in regulation 11, and shall, before dumping any material on that decommissioned dump, give thirty days notice to the Director.

(4) Where dumping is to be resumed on a previously decommissioned classified dump, new rules shall be made and the provisions of regulation 12 shall apply.

(5) A developer shall make a report to the Director if-

(a) such developer makes any change or variation to the specifications of the dumping site, which he originally submitted to the Director, that may affect the safety of that dumping site;

(b) such developer makes any change or variation to the mining operations which may have an adverse impact on the environment; or

(c) the mining operations advances within a horizontal distance of five hundred metres from the boundary of the dump.
14. A developer shall not dump any material which is wholly or partially in solution or suspension or any solid material which may turn into a solution or suspension, over an area vertically above any mine workings, whether abandoned or not, or is within a horizontal distance of one hundred metres from where the line of break from the mine workings intersects the surface.

Prohibition of dumping over mine

15. (1) A developer shall ensure that a dump is properly drained and shall not carry out any dumping operations that may cause accumulation of water in, under or near a dump, making the dump insecure or dangerous.

Drainage of dump

(2) The drainage from any dumping operation shall not enter any mine opening or subsiding ground over any mine workings, whether abandoned or not.

(3) The developer referred to in sub-regulation (1) shall ensure that-

(a) the drainage system of a dump is maintained and is in proper and safe working condition;

(b) regular inspections of the dump are made;

(c) the dump is kept secure and safe;

(d) measures to control pollution are being effected; and

(e) the dumping operations are being carried out in accordance with this Part.

(4) A developer shall keep a record of any maintenance or action taken to remedy any defect in the drainage system.

16. (1) A developer shall appoint a competent person to supervise any person charged with dumping any material in a classified dump to ensure that-

Supervision of drainage system by competent person

(a) the design and the management of the dump; and

(b) the rehabilitation and decommissioning of every dump is done in accordance with these Regulations.

(2) A competent person appointed under sub-regulation (1), shall make a report-
of every defect revealed during any inspection of the dump and any action taken to remedy such defect; 

(b) on the condition of the drainage of the dump; and 

(c) on any pollution to the environment that is revealed during inspection and the action to be taken to control such pollution. 

17. (1) Notwithstanding sub-regulation (2), a developer shall obtain a report from an independent competent person on-

(a) each active classified dump; 

(b) the condition of the ground between a dump and all surface intersections of vertical planes drawn from the boundaries of any mine workings less than one hundred metres from the nearest edge of the dump; 

(c) every matter which may affect the security or safety of the dump, ground or mine workings; 

(d) any significant impact on the environment not originally predicted; and 

(e) the progress made in implementing the environmental impact statement. 

(2) The report shall contain information stating-

(a) whether or not the dump is safe; 

(b) whether there has been any change in the design of the dump or in the nature of the material deposited; 

(c) in detail, whether there may occur or there is likely to occur any subsidence or other surface movement which may affect the safety of the dump or any mine workings, whether abandoned or not; 

(d) any surveys, tests, boreholes or groundwater measurements made for purposes of the report and the results; 

(e) the precautions to be taken during any dumping operations to avoid pollution of the environment and prevent a nuisance; and
(f) any recommendation to modify the environmental impact statement.

(3) The report referred to in sub-regulation (1) shall be obtained-

(a) at intervals of two years;

(b) as soon as practicable after a dangerous occurrence relating to a dump, ground or mine working happens;

(c) as soon as it is practicable after a significant impact on the environment not originally predicted occurs;

(d) after any alteration is made to any specifications or design of a dump; or

(e) if there is any change in the nature of the material dumped which may affect the safety of the dump or the environment.

(4) A copy of the report referred to in sub-regulation (1) shall be kept at the office of a mine for inspection by an inspector and another copy sent to the Director.

(5) If the area was not previously used as a dumping site, the first report shall be made not more than two years after the date on which dumping operations commence.

18. (1) A developer shall, for every active classified dump, keep-

(a) any record relating to such classified dump obtained under regulation 16;

(b) a record of any written directions given by an inspector;

(c) accurate plans and sections of all the dumps and the dumping area showing clearly and accurately the state of the dump, fifteen months from the date any dumping commences or after such period as the Director may direct in writing;

(d) accurate plans of adjacent land within one thousand metres from the boundary of the dump and the sections showing any surface installation, mine workings whether abandoned or not and any geological or other feature that may affect the safety of the dump;

(e) any record completed at the end of each month relating to the nature, quantity and location of the material deposited in such classified dump; and
19. An inspector, competent person or a person in charge of a mine shall inform a developer of any abnormal or unusual matter recorded in any report relating to any dump and the developer shall in turn inform the Director.

20. (1) Within thirty days of ceasing any dumping operations, and after completing the procedure set out in these Regulations a developer shall, apply to the Director for a classified dump to be closed.

(2) An application referred to in sub-regulation (1) shall be accompanied by-

(a) an audit report on the impact of the dump on the environment prepared by an independent competent person;

(b) a copy of the environment impact statement;

(c) a copy of the records of the progress made in implementing the environmental impact statement; and

(d) a report on the progress on rehabilitating the dump indicating the environmental status of the dump and the surrounding areas and the amount of work still outstanding to rehabilitate the dump.

(3) The Director shall within four weeks of receiving the application referred to in sub-regulation (1), inform the developer, in writing, whether he accepts or rejects the application.

(4) Where the Director rejects the application he shall inform the developer, in writing, to make any alterations to the environmental impact statement, as he may think necessary.

(5) The report referred to in paragraph (d) of sub-regulation (2), shall be submitted every twelve months throughout the period the dump is being rehabilitated and decommissioned.

(6) The Director shall close a dump when all the conditions have been met by the developer.
21. (1) A developer shall appoint a competent person to inspect-

(a) every decommissioned dump and the surrounding land situated one thousand metres from the boundary of the dump; and

(b) where the environmental impact statement is being complied with.

(2) Where the dump consists of material mainly in solution or suspension form, the inspection shall be at intervals not exceeding six months.

(3) Where the dump consists of material in a solid state, the inspections shall be at intervals not exceeding twelve months.

(4) A competent person referred to in sub-regulation (1), shall make and sign a full and accurate report of every defect or pollution to the environment which he discovers.

(5) The report referred to in sub-regulation (4) shall be kept at the office of the mine for a period of five years and shall be open for inspection by the public during normal working hours.

22. (1) A developer shall submit to the Director-

(a) a report prepared by an independent competent person relating to the safety and environment status of a decommissioned dump not yet closed, at intervals not exceeding-

(i) five years for a dump consisting of material wholly or mainly in solution or suspension form;

(ii) ten years for a dump of material mainly in a solid state;

(b) a special supplementary report as soon as is practicable, if any pollution to the environment relating to a decommissioned dump not yet closed occurs; and

(c) a report within seven days, when the mine workings reach a horizontal distance of five hundred metres from the boundary of a decommissioned classified dump and the effect of such mine workings on the safety of the dump.
(2) The report referred to in sub-regulation (1) shall contain—

(a) the provisions set out in the Fifth Schedule;

(b) information on the safety of the dump;

(c) details of any subsidence or any other ground movement that may affect the safety of the dump indicating any danger to the mine workings;

(d) details of the progress of any rehabilitation work undertaken in accordance with the approved environmental impact statement; and

(e) information on the nature and extent of the inspection and supervision and the measures that should be taken to prevent or control pollution or abate nuisance.

23. (1) A developer shall keep a record at the mine of any plans and sections of a decommissioned classified dump including—

(a) any particulars of any dumping, building, mining operations or engineering operations which may affect the safety of the dump or any survey or tests;

(b) any accurate plans and sections of every dump and the land adjacent to it, showing the extent of the dump from the date dumping operations ceased and decommissioning began;

(c) information showing the chemical composition and amount of material deposited, in tonnes;

(d) any accurate plans of the land adjacent to the dump, which is within one thousand metres from the boundary of the dump;

(e) any accurate sections of the strata underlying the dump, showing any variation in the thickness or character of the strata, which may affect the safety of the dump;

(f) a report, updated annually, on the progress of rehabilitating the dump and the surrounding area;

(g) any report relating to the dump as provided for under these Regulations; and
any instructions given by an inspector relating to the dump.

(2) Any book, plan or other record referred to in sub-regulation (1) shall be open for inspection by an inspector.

24. (1) A developer shall submit to the Director-

(a) all reports required under regulation 23;

(b) a report on the progress of rehabilitating the dump and the surrounding area; and

(c) the final audit on the environment conducted by an independent person.

PART IV AIR QUALITY AND EMISSION STANDARDS

25. (1) Except as provided for in the Sixth Schedule, a developer shall comply with the ambient air quality and emission standards established under the Air Pollution (Licensing and Emission Standards) Regulations, when discharging any toxic substance or harmful dust into the atmosphere.

(2) The Director shall provide air quality limits to a developer where specific air quality limits or guidelines are not provided for under the Air Pollution (Licensing and Emission Standards) Regulations, or under the Sixth Schedule.

26. The provisions of the legislation on Occupational Health and Safety shall apply to any person employed by a developer who is at risk of contracting any occupational disease as a result of any emission or pollutants which may result from any mining operations.

27. A developer shall provide adequate supply of water to suppress dust or fumes generated by a mining operation where effective dust or fume extraction facilities are not available.

28. (1) A developer shall provide ventilation which is adequate and effective-
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(a) as provided in the Sixth Schedule and in the Air Pollution Control (Licensing and Emission) Regulations;

(b) in any surface plant, building or any part of a mine in which any person travels to and from work or works;

(c) where any dust containing coal, asbestos or siliceous matter is released or may be released; or

(d) where any toxic substance evolves or may be evolved.

29. (1) Any toxic substance or harmful dust collected and not discharged into the atmosphere, as provided for in regulation 26, shall be abated at source or as near to the source as is practicable.

(2) A toxic substance shall not be released from any surface plant or building in which any dust referred to in sub-regulation (1) is handled, processed, stored or evolved.

(3) Where the concentration of toxic substances determined under sub-regulation (1), are suspected to be harmful to any person or the environment, the frequency of determining the air quality shall be increased and steps taken to reduce the toxicity to acceptable levels as provided under the Environmental Protection and Pollution Control Act.

(4) In determining the air quality under sub-regulation (1) the Director shall specify-

(a) the concentration of gases specified in the Sixth Schedule;

(b) the dust concentrations; and

(c) the concentration of any other toxic substance which is known or suspected to be present.

(5) The Director shall keep a record of the results of the air quality determined under sub-regulation (1), which record shall be signed by the ventilation engineer and the senior mine official of the plant, building or process concerned.

(6) A quarterly report of the results obtained in accordance with sub-regulation (1), shall be submitted to the Director in such form as the Director may determine.
30. (1) The Director shall assess the air quality of a scheduled mine or any mine to determine the air quality of a surface plant at intervals not exceeding thirty-one days.

(2) In making the assessment under sub-regulation (1) the Director shall consider;

(a) dust concentrations;

(b) concentrations of the gases specified in the Second Schedule of the regulations; and

(c) concentrations of any other toxic substance which is known or suspected to be present.

PART V WATER STANDARDS

31. The water rights of any mining activity shall be as provided for in the Water Act.

32. The quality of drinking water provided by a developer to his employees shall be as provided in the Seventh Schedule.

33. The quality of any water effluent entering a stream in a mining area which is licensed as a discharge site, shall be as provided for in the Third Schedule to the Water Pollution Control (Effluent and Waste Water) Regulations.

PART VI STORAGE, HANDLING AND PROCESSING OF HAZARDOUS MATERIAL

34. (1) In this Part, unless the context otherwise requires-

"bowser" means a mobile vessel used for conveying fuel underground or from the surface to underground;

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"container" means a movable vessel, which has a capacity of not more than two hundred litres and not less than twenty litres, used for storing or conveying hazardous liquid;

"corrosive" means any substance that by chemical action may cause damage when in contact with any living tissue or any other substance;

"hazardous material" means-

(a) any substance which is a potential source of harm or danger;

(b) any corrosive, inflammable or combustible solid or liquid, ionising radiation and its source or petroleum product; or

(c) any toxic substance, hazardous liquid or hazardous solid;

"highly inflammable liquid" means any liquid which has a flash point of 7 degrees celsius or below;

"inflammable and combustible solid" means any carbonaceous or organic solid capable of self-igniting or of being ignited;

"inflammable combustible liquid" means any liquid which has a flash point below 93 degrees celsius;

"inflammable liquid" means any liquid which has a flash point above 7 degrees celsius but below 60 degrees celsius;

"ionising radiation" means any radioactive substance, whether sealed or unsealed and any machine or apparatus which emits ionising radiation particles charged at a voltage of not less than five kilovolts;

"mobile container" means any vessel mounted on wheels, tracks or skids, whether self-propelled or not, used for the transportation of any hazardous liquid and includes a bowser, tanker and trailer;

"petroleum product" means any derivative or product of crude petroleum oil and includes any liquidified hydrocarbon gas and its distillates;

"portable container" means any vessel which has a capacity of not more than twenty litres used for the storage or conveyance of any hazardous liquid;

"vehicle" means any wheeled or tracked self propelled unit, track or wagon owned or operated by a mine or contractor on the mine;
"tanker" means a mobile vessel used for the transportation of any hazardous liquid, by road or rail, on the surface;

"combustible liquid" means any liquid which has a flash point above 60 degrees celsius but below 93 degrees celsius;

"vessel" means any object or container used to carry hazardous, inflammable or combustible liquid, or petroleum products.

35. Any building, installation or equipment for storing any liquid under this Part, shall be suitable for storing such liquid.

36. Any liquid under this Part shall be stored, handled and processed in a manner that is safe and healthy for any person working in that mine.

37. A developer shall ensure that an appropriate code of safe working practice is enforced in accordance with regulation 37.

38. Any inflammable combustible liquid shall be classified as follows:

(a) class I: any liquid which has a flash point below 38 degrees celsius;

(b) class II: any liquid which has a flash point above 38 degrees celsius but below 60 degrees celsius;

(c) class III: any liquid which has a flash point above 60 degrees celsius but below 93 degrees celsius.

39. (1) Except petrol in a tank of a vehicle, a highly inflammable liquid in excess of twenty litres shall not be stored in any container in a building.

(2) Except fuel oil or any liquid stored in an industrial pressure cylinder, a combustible liquid shall not be taken underground without the prior approval in writing of the Director.

(3) No petrol shall be taken underground.
40. (1) Any vessel used for storing, conveying or transporting any hazardous liquid shall-

(a) be sealed with a positive sealing device and where the vapour of that liquid may generate pressure to a dangerous level that container shall be sealed using a pressure relief valve;

(b) have a built in relief mechanism; and

(c) be clearly marked and labelled and, have prominently displayed on it, a label giving an appropriate warning of the dangers of such liquid.

(2) The conditions for storing any hazardous liquid shall be as prescribed in the Eighth Schedule.

41. (1) A person transferring any hazardous liquid shall-

(a) only load or unload one container at any one time and shall do so with the help of other people;

(b) use a suitable transfer pump or other safe means, when transferring any liquid into, or from, any mobile container or tank;

(c) not use a vessel that is pressurised or discharge any liquid unless the conditions relating to a pressure vessel are met, in accordance with the provisions of the Mining Regulations, 1997.

(d) use a vessel which is electrically bonded or protected against dangerous electro-static build-up;

(e) take adequate precautions to protect any person from any danger arising from the movement of such liquid, and

(f) not mix one type of inflammable or corrosive liquid with another.

(2) Notwithstanding paragraph (b) of sub-regulation (1), a gravity head of any hazardous liquid discharged may be used where a positive means for stopping the flow of that hazardous liquid is adequately secured at source.
(3) The gravity head of the hazardous liquid referred to in sub-regulation (2) shall not exceed thirty metres without the prior approval, in writing, of the Director.

42. (1) Where the quantity of any hazardous liquid stored inside any building exceeds two hundred litres, that liquid shall be stored inside a storage room set aside for that purpose.

(2) The storage room, referred to in sub-regulation (1), shall not contain more than two thousand litres of any hazardous liquid.

(3) The storage room referred to in subsection (2) shall-

(a) be located in such a position that fire may not spread quickly and shall have a minimum of two hours resistance;

(b) have suitable fire-fighting equipment located in suitable positions, outside the room;

(c) be fitted with a high and low system of ventilation flowing outside;

(d) be built with a floor that can easily be drained;

(e) have facilities to relieve pressure where there is likelihood of any danger.

(f) have prominently displayed at suitable places, inside, and outside that room, notices bearing the following inscriptions: "NO SMOKING", "NO FIRES" and "NO NAKED LIGHTS"; and

(g) have electric light bulbs, inside that room, adequately protected with all switches and fuses affixed outside.

(2) Any vessel kept in the storage room shall be suitably sealed when not in use.

43. (1) Where the quantity of any hazardous liquid stored outside any building in a storage shed exceeds two hundred litres, that shed shall-

(a) have a space of at least five metres from any cultivation, shrub or grass and other inflammable or combustible materials capable of causing fire;
(b) be constructed of non-flammable material;

(c) have suitable fire-fighting equipment located at suitable positions outside the shed;

(d) be fitted with a high and low system of ventilation flowing outside;

(e) have prominently displayed at suitable places inside and outside the shed, notices bearing the following inscription: "NO SMOKING", "NO FIRES" and "NO NAKED LIGHTS"; and

(f) where illuminated by electric lights, have all bulbs inside that shed adequately protected with all switches and fuses affixed outside that storage shed.

(2) A container containing any liquid kept in the shed shall be kept suitably sealed when not in use.

44. (1) Where the quantity of any hazardous liquid stored on the surface in any open area exceeds two thousand litres, that open area shall-

(a) be adequately fenced at a distance of five metres from the surrounding area, away from any cultivation, shrub or grass and other inflammable or combustible materials that can cause fire;

(b) have prominently displayed, at suitable places outside the fenced area, notices bearing the following inscription: "NO SMOKING", "NO FIRES" and "NO NAKED LIGHTS"; and

(c) have electric light bulbs, within that fenced area, adequately protected with all switches and fuses affixed outside that fence.

45. (1) Where the quantity of any hazardous liquid stored in any vessel exceeds two thousand litres, the conditions set out in the Ninth Schedule to these Regulations shall apply.

(2) A plan of the area where the vessel is to be installed and the specifications of the vessel shall be submitted to the Director accompanied by a plan of the site showing how any potential contamination of the soil shall be prevented or controlled.

(3) The Director shall approve the plan referred to in sub-regulation (2) within sixty days of receipt of such plan.
46. (1) A person shall not re-fuel any self-propelled vehicle with petrol or fuel-oil except at a filling station constructed in a mining area in accordance with regulation 47.

(2) When it is impracticable to comply with the requirements under sub-regulation (1), a person may re-fuel from suitably equipped, mobile container with the prior approval, in writing, of the Director, and in case of an emergency, a small quantity of petrol or fuel-oil, sufficient to enable a vehicle to be driven to a filling station, may be taken to that place in a portable container.

(3) The Director may approve, in writing, re-fuelling underground directly from a bowser, in the initial stages of any mining operations, if it is not practicable for a filling station to be constructed.

(4) A person shall not re-fuel at any filling station or at any other place, while the engine of the vehicle being re-fuelled is running.

(5) A person shall not re-fuel within three metres from any live trolley line conductor.

47. (1) Any filling station in a mining area shall-

(a) be constructed out of non-flammable materials;

(b) be accessible in not less than two ways;

(c) be ventilated by a flow of sufficient air to dilute any gas emitted during re-fuelling;

(d) have a concrete floor that is impervious and free of cracks and shall be sloped to facilitate cleaning and collection of any spilt fuel;

(e) be provided with suitable fire-fighting equipment;

(f) open between hours of sunset and sunrise on the surface and at all times underground; and

(g) be equipped with suitable electric lighting and the bulbs and tubes for the lighting shall be adequately protected.
(2) A competent person shall be in charge of a filling station or any other place where petrol or fuel-oil is stored.

(3) The provisions of sub-regulation (3) of the Regulation (3) shall apply to this Regulation, with the necessary modifications.

48. A developer shall transport fuel from the surface to the underground or between places underground in a bowser, approved in writing, by the Director.

49. Any fuel-oil used underground to power any engine shall be as specified in the Ninth Schedule.

50. The total quantity of fuel-oil permitted underground shall not, as far as is reasonably practicable, exceed the quantity likely to be normally consumed within a period of seven days.

51. (1) Where any petrol of fuel-oil is spilled in any place it shall be removed immediately, and if, in the process of removing the petrol or fuel-oil, any material is contaminated, that material shall be placed in a suitable container for subsequent destruction or other safe disposal.

(2) Any person who spills petrol or fuel-oil on an engine or vehicle that person shall immediately ensure that the petrol or fuel-oil is removed.

(3) A person shall not wash any petrol or fuel-oil into any drainage system or any place where it may cause danger or pollution to the environment.

52. Except a bowser, any container, used to transport any hazardous liquid under this Part shall-

(a) be fitted with surge plates;

(b) have filling pipes which extend below the level of the suction pipe;

(c) have a vent of not less than fifty millimetres in diameter, fixed to each vessel and protected by two wire gauze diaphragms which do not corrode, each of which shall have a linear mesh aperture of not less than 0.4 millimetres or more than 0.6 millimetres and diaphragms spaced not less than seventy-five millimetres apart;
(d) be earthed in accordance with the provisions of the Mining Regulations, 1997, during transportation of any hazardous liquid and the resistance of any connection shall not exceed five ohms;

(e) be equipped so that the volume of the liquid in the container may be accurately ascertained at any time;

(f) have prominently displayed:

(i) on the front, rear and each side, the name of the hazardous liquid being transported and its category in accordance with regulation 35;

(ii) any special action to be taken or any action to be avoided, in an emergency concerning the hazardous liquid being transported; and

(iii) any prohibitions to be observed by persons near the mobile container;

(g) be equipped with suitable fire-fighting equipment adequate to combat fire in its initial stage;

(h) be fitted with the requirements specified in the Roads and Roads Traffic Act in relation to that liquid; Cap. 464

(i) have an air space of not less than 2.5 per cent of the total capacity of that container;

(j) have all elements of any articulated container electrically bonded; and

(k) be securely attached to the chassis.

53. A developer transporting fuel-oil in a bowser shall transport such fuel in a bowser-

(a) fitted with filling pipes which extend below the level of the suction pipe;

(b) which has a vent of not less than fifty millimetres in diameter, fixed to each vessel and protected by two wire gauze diaphragms that do not corrode, each of which has a linear mesh aperture of not less than 0.4 millimetres or more than 0.6 millimetres and diaphragms spaced not less than seventy-five millimetres apart;

(c) earthed in accordance with the provisions of the Mining Regulations, 1997, and the resistance of any connection shall not exceed five ohms;
(d) clearly marked;

(e) equipped with suitable fire-fighting equipment adequate to combat fire in its initial stage;

(f) fitted with a suitable reflector at each end; and

(g) with an air space of not less than 2.5 per cent of the total capacity of such bowser.

54. Any developer who transports acid using a mobile container or road tanker shall, in addition to the provisions of regulation 52-

(a) prominently display on the front, rear and each side of such container or road tanker a notice bearing the following inscription: "DANGER ACID", and shall have a clearly visible flashing light when transporting the acid;

(b) have at all times, at least twenty litres of water to be used for diluting the acid in case it burns any person; and

(c) have adequate chains between the trailer and the tanker at each side of the tow-bar where the tanker is towing a trailer tanker.

55. (1) A person shall not smoke or use any naked lights at any filling station or at any other place where petrol or fuel-oil is stored or where vehicles are re-fuelled.

(2) A notice shall be displayed at a filling station and other places referred to in sub-regulation (1) stating the prohibition referred to in that sub-regulation.

(3) A developer shall provide adequate fire-fighting facilities at a filling station or other places referred to in sub-regulation (1).

56. A developer shall not use a road tanker transporting any corrosive liquid to tow any other vehicle.

57. (1) Where any inflammable or combustible solid is stored at any place, the following conditions shall apply:
(a) adequate precautions shall be taken to prevent spontaneous combustion or self-ignition;

(b) sufficient ventilation shall be provided to dilute spontaneous combustion or self-ignition;

(c) incompatible solids shall be stored apart;

(d) suitable fire-fighting equipment shall be provided; and

(e) a notice bearing the following inscription: "NO SMOKING", "NO NAKED LIGHTS" and "NO FIRES" shall be prominently displayed at suitable places.

(2) Any inflammable and combustible solids shall be stored in a safe and suitable manner at a safe distance from any explosives, magazine, storage box or shaft.

(3) Notwithstanding sub-regulation (2), an inflammable or combustible material awaiting transportation underground may be temporarily stored at the shaft bank if suitable precautions are taken to prevent danger from fire.

58. A person shall not touch or move any container or vessel containing any hazardous material which is leaking until a competent person has personally examined the container and has given instructions on the action to be taken.

59. (1) Where any repair is to be undertaken inside any vessel or mobile container which contains any hazardous material, the following procedure shall be followed:

(a) the mobile container or vessel shall be opened and thoroughly ventilate before any repairs are undertaken;

(b) a suitable sampling apparatus shall be used to determine the level of any concentration of gas, vapour or fumes in the container;

(c) a person shall not enter the vessel or mobile container until it is safe to do so;

(d) a competent person, who has personally examined the vessel or mobile container and who is satisfied that it is safe to do so, shall certify that repairs be undertaken specifying-

(i) the repairs to be undertaken;
(ii) the manner in which such repairs shall be undertaken; and

(iii) the precautions to be observed;

(e) where the container contains inflammable, combustible or toxic liquid, it shall be purged; and

(f) where any scale or sludge is to be removed, the repairs shall only be undertaken with suitable non-ferrous tools.

(2) Where any repair is to be carried out on the outside of any tank or mobile container, suitable precautions shall be taken to ensure that no person is endangered while conducting such repairs.

60. Where any repairs have to be carried out on any bowser which contains a hazardous liquid, the provisions of regulation 59 shall apply.

61. Where any repairs have to be carried out on any vessel which contains hazardous material, the provisions of regulation 59 shall apply before any person enters the container.

62. The provisions of the Ionising Radiation Act shall apply to any place in which ionising radiation or any radio-active substance is present.

PART VII INSPECTION

63. (1) The Director shall appoint authorised persons in accordance with the provisions of section eighty-three of the Act.

(2) The Director shall issue an identity card set out in the Tenth Schedule to each authorised person.

(3) Any person who obstructs the Director in the performance of his duties under this Part shall be guilty of an offence.
64. (1) An authorised person shall have powers, on production of the identity card issued to him under regulation 63, to inspect any mining operation and conduct such inquiries and tests to ensure that the provisions of the Act and these Regulations are being complied with.

(2) In inspecting any mining operation referred to in sub-regulation (1), an authorised person shall ensure that the mining operation does not have a severe impact on the environment and the records kept are in accordance with the provisions of these Regulations.

(3) The mining operations and records referred to in sub-regulation (2), shall not apply to proprietary information.

(4) An authorised person shall furnish the Director with such reports and such other information relating to the matters referred to in sub-regulation (2) as the Director may direct.

PART VIII THE ENVIRONMENTAL PROTECTION FUND

65. (1) A developer shall contribute to the fund established under the Act.

(2) The contributions referred to in sub-regulation (1), shall depend on the capacity of the developer to rehabilitate the mining operations that may have an adverse impact on the environment, as may be determined by the Director.

(3) A person referred to in sub-regulation (2), shall apply for a refund of his contribution, less the monies owed to Government as provided for under the Act, if a mine site is declared closed.

66. (1) The contributions to the Fund referred to in regulation 65, shall be calculated depending on the performance of each developer, and shall be categorised as set out in the Eleventh Schedule

(2) The Director shall inform the developer of the category in which the prospecting, exploration or mining operation shall fall and the contribution to the fund using the Form as set out in the Third Schedule.
(3) The contribution shall be deposited with the Fund over a period of five years beginning the year the prospecting, exploration or mining operations are commissioned in the case of new operations, or when the developer submits an approved environmental impact statement in the case of existing mines or project briefs for prospecting and exploration projects.

(4) A new prospecting, exploration or mining operation shall not be classified in category 1 of the Eleventh Schedule.

(5) A developer who is aggrieved by any decision made under this regulation, may appeal against such decision in accordance with, and as provided for, under section ninety-five of the Act.

67. The Director may give concessions to a developer after assessing-

Concessions by Director

(a) the approved environment impact statement of new or existing mining, prospecting or exploration operations,

(b) the annual audit report on the environment submitted to the Director; and

(c) any inspection or investigation that the Director may consider necessary for environmental audit report purposes.

PART IX MISCELLANEOUS

MISCELLANEOUS

68. Except for any proprietary information, the public shall have access to projects briefs, environmental impact statements, comments made by the public hearing reports kept by the Director.

69. (1) A developer shall provide appropriate protective clothing to any employee exposed to any pollutant from a mining process or the environment which may cause injury or impairment to the function of the body of such employee.

(2) An employee to whom personal protective clothing is provided under sub-regulation (1), shall maintain such clothing in a sanitary and proper condition.
70. A developer who operates a mine, where any toxic substance is handled, processed or stored, shall provide—

(a) adequate washing facilities to be used by these employees at the end of each shift; and

(b) adequate facilities immediately adjacent to the washing facilities established under paragraph (a), where such employees shall eat during working hours.

71. A developer shall issue an appropriate code of safe working practice for use by all the employees who work in hazardous conditions, to ensure, as far as is reasonably practicable, the safety and health of his employees.

72. A developer who makes, or causes any other person to make, an excavation into which a person or animal may fall, shall make a regular ridge around the boundary of the excavation or take such other measures as are necessary for the safety or health of such person or animal.

73. (1) Where any mining operation has caused or is likely to cause any crack, subsidence or cavity on the surface in any area, the whole of the area shall be kept fenced or bounded and shall be a caving area and sufficient notices prohibiting unauthorised entry to the area shall be prominently displayed at suitable places along the fence or bounds.

(2) No person shall carry out any mining operations likely to cause any crack, subsidence or cavity on the surface within a horizontal distance of one hundred metres from any building, road, railway, lake, river, or any other structure or feature on the surface requiring protection, unless written permission is obtained from the Director, under such conditions as he may prescribe.

(3) No person shall erect or construct a building, power line, road or railway within one hundred metres from the line of break of a caving area, except with the written permission of the Director.

(4) No person shall deposit tailings or other fluid material at any place on the surface of a mine, without the prior approval in writing of the Director.

(5) No person shall enter any caving area, except for the purpose of performing statutory duties.
75. A dump which may cause spontaneous combustion, shall be situated in such a position that it may not cause fire and shall not-

(a) be a danger to any person;

(b) damage any mine shaft, open pit mine, quarry or building; or

(c) pollute the environment.

74. (1) Any person who contravenes any provisions under these Regulations shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding twenty thousand penalty units or to imprisonment for a term not exceeding two years or to both.

(2) If the offence referred to in subsection (1) is committed by a company, each person who is a director or is a person in-charge of that mine shall be guilty of that offence, if it was committed with his knowledge.
INFORMATION TO BE CONTAINED IN ENVIRONMENTAL PROJECT BRIEF

1. Name of developer
2. Address of developer
3. Telephone number of developer
4. Fax numbers and electronic mail address
5. Name of owner of mine
6. Mine manager or the person responsible for mine
7. Prospecting permit or mining right or licence number
8. Regional setting:
   (a) plan or aerial photograph required;
   (b) topography (Plan required);
   (c) surface infrastructure (such as roads, railway lines and power lines in the vicinity).
9. A brief description of the regional climate:
   (a) mean monthly and annual rainfall for the site;
   (b) mean monthly maximum and minimum temperatures;
   (c) mean monthly wind direction and speed-where appropriate (such as in urban areas and if such information is freely available);
   (d) mean monthly evaporation; and
   (e) incidence of extreme weather conditions—floods, drought, high winds.
10. Soil:
    (a) plan required;
    (b) a description of the soil types to be disturbed, their fertility, erodibility and depth;
    (c) pre-mining land use (proportions of the land used as arable land, grazing land, wetland, and wilderness land, and existing structures and any evidence of misuse).
11. Natural vegetation or plant life
12. Animal life:
    Presence of rare or endangered species.
13. Surface Water:
    (a) plan required;
    (b) the presence of water course, streams, rivers, dams, and pans should be indicated; and
    (c) surface water quality.
14. Groundwater (information readily available):
    (a) depth of water-table, presence of water boreholes; and springs (plan required); and
    (b) groundwater quality and use.
15. Air quality
16. Noise
17. Sites of archaeological and cultural interest (plan required)
18. Sensitive landscapes
19. Visual aspects
20. Regional socio-economic structure (does not apply for prospecting)
21. Interested and affected parties:
    Identify and list known bodies representing interested and affected parties.
22. Geology:
    (a) representative logs, and where appropriate, a section through the orebody and surface mapping;
    (b) identify and characterise overburden material that will be disturbed, may give rise to a deterioration in water quality; and

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The Laws of Zambia

(Regulation 4)

CONTENTS OF ENVIRONMENTAL IMPACT STATEMENT

1. A detailed description of the proposed prospecting, exploration or mining operation.

2. An estimate of the expected impact of the prospecting, exploration or mining operation on the environment.

3. The procedure to be used to either prevent, minimise or rehabilitate the adverse environmental impact.

4. The proposed environmental management procedures shall be specified and shall include an adequate monitoring and reporting system, which shall incorporate the provisions of the Environmental Protection and Pollution Control Act.

5. Surface infrastructure:
   Surface infrastructure (plan required), to include:
   (a) Roads, railways and power-lines;
   (b) Solid waste management facilities including-industrial and domestic waste disposal sites; mine residue disposal sites (state or show on the plan, the type of residue, final extent of the dumps, construction method and water reticulation layout);
   (c) Water pollution management facilities, including-
       (i) sewerage plant location, its design capacity and the process to be used;
       (ii) pollution control dams, dumps, paddocks and evaporation dams (indicate whether these are to be lined or not); and
       (iii) polluted water treatment facility, its design capacity and the process to be used;
   (d) Portable waterplant, location, its design, capacity and the process to be used;
   (e) Process water supply system, its design, capacity and the process to be used;
   (f) Mineral processing plant;
   (g) Workshops, administration and other buildings;
   (h) Housing, recreation and other employee facilities;
   (i) Transport;
   (j) Water balance diagram right across the minesite (the diagram should show the water supply source(s), the water discharge point(s), the evaporation areas and potential seepage points. Each step in the diagram should indicate the estimated flow, in cubic metres per day, into and out of the facility, whether it is pumped or gravity fed, piped or an open channel flow, clean or dirty water and, where appropriate, e.g. in the case of dams, the storage capacity); and
   (k) Disturbances of water courses.

6. Storm-water:
   (Indicate on a plan the storm water diversion measures designed to separate clean from contaminated water);

7. Geology

8. Topography:
   (Plan required of expected post-mining topography. Include what slopes will be created during rehabilitation and dump construction).

9. Soils:
   (Include depths of soil that will be disturbed and how fertility and erosion will be managed);

10. Land capability:
    (Plan required of expected post-mining land capability), and use-(include what type of land use is planned).

11. Natural vegetation or plant life:
    (For river and stream diversions emphasise aquatic plant life. If possible, include a description of the plant life that will be used during rehabilitation and how the vegetation will be managed).

12. Animal life:
    For river and stream diversions, emphasise aquatic animal life.

13. Surface water:
    Indicate the strategies for managing the following:
    (a) the water balance;
    (b) storm water;

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THIRD SCHEDULE

(Regulations 5 and 66)

THE REHABILITATION COSTS ESTIMATE

The rehabilitation cost estimate submitted by the developer shall be lodged as a cash contribution with the Environmental Protection Fund established under the Act over a period of five years beginning in the year mining operation is commissioned. For new projects, a submission of an acceptable environmental management plan in the case of existing mines, at the rate of twenty percentum of the total cost each year, if a mining operation lasts less than five years, the cash contribution rate shall be on a pro-rata basis. There shall be concessions given against the full cash contribution to be submitted to the Fund which will depend upon the mining operations environmental performance rating as follows:

<table>
<thead>
<tr>
<th>Category</th>
<th>Concession</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>95% off full rehabilitation cost</td>
</tr>
<tr>
<td>2.</td>
<td>90% off full rehabilitation cost</td>
</tr>
<tr>
<td>3.</td>
<td>80% off full rehabilitation cost</td>
</tr>
</tbody>
</table>

The levy concessions shall be such that a developer contributes successively decreasing amounts of money to the Fund over the five year implementation period depending on how quickly the project moves from environmental category 3 to 1. However, this means that the minimum cash contribution that a project can submit to the fund is 5% of the total mine site rehabilitation cost as estimated by the developer. New projects can upon demonstration of capability be rated as Category 2 and then work towards achieving Category 1 status. This contribution shall be calculated against concluding closure costs only and will exclude progressive rehabilitation costs.

ITEMISED REHABILITATION

REHABILITATION COST ESTIMATES

<table>
<thead>
<tr>
<th>Surface Treatment</th>
<th>Estimated Cost (K/ha)</th>
<th>Area (ha)</th>
<th>Cost (K)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Plough, seed, fertilise, construct</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Graded banks, plant area, roadways spoil</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Profiling of spoil for topsoil spreading</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Pick-up, transport 100 m, spread Topsoil per 300 mm</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
CONTENTS OF REPORT TO DIRECTOR BEFORE DUMPING

1. The intended total amount of material to be dumped.
2. The average amount of material to be dumped.
3. The chemical composition of the material.
4. The intended dumping method.
5. The details of the site preparation, drainage and foundation.
6. Plans of the proposed dump to a scale of not less than 1/2500 and a section to a scale of not less than 1/1250 or to such larger scale as the Director may in writing approve.
7. The records of the design of the dump.
8. The intended area, height and contour of the boundaries of the dump.
9. The position and the nature of the construction of any wall or other structure.
10. The design and structure of the spillway and the type of material to be deposited there.
11. The nature and extent of inspection, supervision and safety measures necessary during any dumping operations.
12. The details of measures intended to prevent pollution including information on-
   (a) surface hydrology;
   (b) existing surface water quality;
   (c) riverbed sediment;
   (d) ground water hydrology and ground water quality, where applicable;
   (e) the extent and location of any ground water aquifers relative to the selected disposal site and how they are to be protected from pollution;
   (f) the monitoring system to be used;
   (g) the chemical composition of the material to be deposited which shall be evaluated;
   (h) the mineralogy of the selected site to determine the potential of acid mine drainage.

N.B. The environment impact statement provided under regulation 6 shall be attached.
(Regulation 22)

CONTENTS OF DECOMMISSIONING AND CLOSURE PLAN

1. Reasons for closure.

2. Infrastructure:
   (a) demolition of structures buildings foundations and removal of debris;
   (b) rehabilitation of the surface according to section seventy-six of the Act.

3. Mine dumps and residue deposits:
   (a) disposal facilities like pipes, solution, trenches, return water dams, etc;
   (b) ongoing seepage, control of rain water;
   (c) long-term physical and chemical stability; and
   (d) final rehabilitation in respect of erosion and dust control.

4. Sealing of underground mining operation:
   rehabilitation of dangerous excavations.

5. Progress report of decommissioning:
   A developer shall submit to the Director, annually, the progress of the decommissioning of the mining operating until the area is declared closed by the Director.

6. Maintenance-A decommissioned site which requires maintenance until closure is approved by the Director, shall be maintained by the developer by-
   (a) rehabilitating the land;
   (b) controlling water pollution; and
   (c) rehabilitating residue deposits.
### MAXIMUM PERMITTED QUANTITIES OF CERTAIN GASES IN AMBIENT AIR

<table>
<thead>
<tr>
<th>Description of gas</th>
<th>Maximum permitted quantity of gas in mg/m$^3$</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Hydrogen sulphide</td>
<td>14</td>
</tr>
</tbody>
</table>
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SEVENTH SCHEDULE

(Regulation 32)

**Table 1:** GUIDELINE VALUES FOR HEALTH RELATED INORGANIC CONSTITUENTS IN DRINKING WATER (WHO, 1993)

<table>
<thead>
<tr>
<th>Constituent</th>
<th>Guideline Values (mg/L)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arsenic</td>
<td>0.01</td>
</tr>
<tr>
<td>Cadmium</td>
<td>0.003</td>
</tr>
<tr>
<td>Chromium</td>
<td>0.05</td>
</tr>
<tr>
<td>Cyanide</td>
<td>0.07</td>
</tr>
<tr>
<td>Fluoride</td>
<td>1.5</td>
</tr>
<tr>
<td>Lead</td>
<td>0.01</td>
</tr>
<tr>
<td>Mercury</td>
<td>0.001</td>
</tr>
<tr>
<td>Nitrate (as N)</td>
<td>10.00</td>
</tr>
<tr>
<td>Selenium</td>
<td>0.01</td>
</tr>
</tbody>
</table>

**Table 2:** GUIDELINE LEVELS FOR CHEMICAL CONSTITUENTS AND PHYSICAL CHARACTERISTICS THAT MAY AFFECT THE AESTHETIC QUALITY OF DRINKING WATER (WHO, 1993)

<table>
<thead>
<tr>
<th>Constituent Characteristic</th>
<th>Guideline Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aluminium</td>
<td>0.2mg</td>
</tr>
<tr>
<td>Chloride</td>
<td>250 mg C/litre</td>
</tr>
<tr>
<td>Colour</td>
<td>15 True Colour units</td>
</tr>
<tr>
<td>Copper</td>
<td>1.0 mg/L</td>
</tr>
<tr>
<td>Hardness</td>
<td>500 mg/L as CaCO$_3$</td>
</tr>
<tr>
<td>Hydrogen Sulphide</td>
<td>0.05 mg/L</td>
</tr>
<tr>
<td>Iron</td>
<td>0.3 mg/L</td>
</tr>
<tr>
<td>Manganese</td>
<td>0.01 mg/L</td>
</tr>
<tr>
<td>pH</td>
<td>6.5-8.5</td>
</tr>
<tr>
<td>Sodium</td>
<td>200 mg/L</td>
</tr>
<tr>
<td>Solids - total Dissolved</td>
<td>1000 mg/L</td>
</tr>
<tr>
<td>Sulphate</td>
<td>250 mg/L</td>
</tr>
<tr>
<td>Taste and Colour</td>
<td>Not offensive for most consumers</td>
</tr>
<tr>
<td>Turbidity</td>
<td>5 Nephelometric turbidity units preferably</td>
</tr>
<tr>
<td>Zinc</td>
<td>&lt;1 disinfectant efficiency</td>
</tr>
<tr>
<td></td>
<td>3.0 mg/L</td>
</tr>
</tbody>
</table>
CONDITIONS FOR STORING HAZARDOUS LIQUID

1. Every vessel shall-
   (a) contain two suitable manholes, handholes or other means which will allow the interior to be thoroughly cleaned and inspected;
   (b) have safe means of access by any person to any part of the vessel;
   (c) have a vent not less than fifty millimetres in diameter fixed to each vessel and adequately protected by two wire gauze diaphragms, that do not corrode and which has a linear aperture of not less than 0.4 millimetres or more than 0.6 millimetres and diaphragms shall be spaced not less than seventy-five millimetres apart;
   (d) have a vent at the open end facing downwards at least three metres above ground level and not within three metres from any door, chimney or exhaust pipe;
   (e) be earthed as defined in the electricity provisions of the Mining Regulations, and the resistance of any connection shall not exceed five ohms;
   (f) be equipped with filling pipes, extending below the level of the suction pipe with a screwed metal connection to the source of supply;
   (g) have, prominently displayed at suitable places, notices bearing the following inscription: "NO SMOKING", "NO FIRES" and "NO NAKED LIGHTS";
   (h) placed reasonably free from corrosive ground water or effluent or be treated with anti-corrosive materials; and
   (i) be equipped so that the volume of liquid contained in that vessel may be accurately ascertained.

2. The provisions of paragraph (c), (d), (e), (f), (g), (h), (i) and (j) of sub paragraph 1 shall apply to a vessel which is buried and contains petrol or fuel-oil.

3. A buried vessel referred to in sub-paragraph 1 shall be-
   (a) covered with reinforced concrete to a thickness of not less than one hundred and sixty millimetres;
   (b) be suitably protected; and
   (c) filled through oil-tight pipes fitted with screwed pipes or valves.

4. The provisions of paragraph 1 shall apply to any vessel in which petrol or fuel-oil is stored on the surface and is not buried.

5. A vessel referred to in paragraph 4 shall be-
   (a) supported on properly constructed wall surrounded by enclosed walls or impermeable bunds or embankments of sufficient strength, capable of retaining one hundred and ten per cent of the amount of petrol or fuel-oil contained in that vessel or, where more than one vessel is installed, one hundred and ten per cent of the amount of petrol or fuel-oil contained in all the vessels;
   (b) have valves to stop the flow of liquid if any pipe is damaged;
   (c) equipped with suitable discharge pumping equipment which shall be placed outside any enclosed impermeable bunds or embankments and fitted with stop valves; and
   (d) have its lightning protected.

6. The provisions of paragraph 1 shall apply to any vessel in which any corrosive liquid is stored on the surface with the necessary modifications.

7. Where the vessel is not provided with enclosed walls or impermeable bunds or embankments, there shall be provided a suitable and adequate drainage system draining into a soak-pit or settling pond of sufficient size to contain one hundred and twenty per cent of all the liquid into the vessel until that liquid can neutralized.

8. Where the discharge of the liquid is by means of compressed air or gas, the requirements of pressure vessels as provided for under the Mining Regulations shall apply.

9. The provisions of paragraph 1 shall apply to any underground vessel in which fuel-oil is stored.

10. An underground vessel referred to in paragraph 9 shall be-
   (a) kept in, or adjacent, to a filling station;
   (b) have two means of access if any point within the area in which the tank is situated is in excess of eleven metres away from the entrance on the intake side;
   (c) constructed of non-flammable materials;
   (d) situated in a well ventilated place and the return air shall be directed to a return airway;
   (e) have walls constructed so as to form a liquid-tight joint with the floor and any oeninos through the walls.
Fuel oil used underground for supplying motive power to diesel engines shall have a sulphur content of not greater than 0.5 per cent by weight and flash-point of not less than 57.0 degrees celsius as measured by the Closed-Tester apparatus detailed by the Institute of Petroleum (IP-34) or the American Society for Testing and Materials (ASTMD-93) test methods. With due allowance for test method repeatability the guaranteed minimum flash-point should never be lower than 51.5 degrees celsius.

If, for refining reasons beyond the control of the suppliers, the flash-point would be lower than the specified value with a fuel of sulphur content of 0.5 per cent by weight or less, then the sulphur content may be increased to a maximum of 1.0 per cent by weight in order to maintain the flash-point above the specified value.
FORM MS 1

REPUBLIC OF ZAMBIA
MINES AND MINERALS ACT
Mines and Minerals (Environment Protection and Pollution Control) Regulations

(Regulation 15)

CERTIFICATE OF IDENTITY FOR AN AUTHORISED PERSON

This is to certify that;
..........................................................................
has been duly appointed as an authorised person in accordance with section eighty-three of the Mines and Minerals Act and section four of the Explosives Act.

Signature ................................................
Director of Mines Safety

Signature ................................................
Bearer
ELEVENTH SCHEDULE

(Regulation 66)

FUND CONTRIBUTIONS

Category 1

Action taken to rehabilitate

(a) progressive rehabilitation carried out;
(b) whether rehabilitation has been properly monitored; and
(c) whether the annual rehabilitation audits show progress to meet the target of the environmental impact statement to manage environmental pollution.

Category 2

Environmental compliance capability

(a) the financial capability to complete the rehabilitation of the mine area;
(b) the materials in place for total mine area rehabilitation;
(c) whether suitable expertise is provided for the organisational structure; and
(d) whether the developer or the person who holds a mining licence or permit has an approved environmental impact statement or project brief.

Category 3

Basis operational and strategic environmental protection requirements

(a) an approved environmental impact statement or project brief;
(b) discharges of mining operations are permitted or licenced;
(c) post-mining land use and slop and profile design, allowing stable land rehabilitation within the mining or permit area; and
(d) a water management system is in place or designed to contain, treat, discharge or dispose of contaminated water.
1. These Regulations may be cited as the Mines and Minerals (Application for Mining Rights) Regulations.

2. (1) A person may apply to the Minister for the following licences in the form set out in the First Schedule:

   (a) Prospecting Licence;

   (b) Mining Licence; and

   (c) Large Scale Mining Licence.

   (2) A person may apply to the Director for the following licences or permit, as the case may be, in the form set out in the First Schedule:

   (a) Small Scale Mining Licence;

   (b) Gemstone Licence; and

   (c) Prospecting Permit.

3. A person may apply to the Authorised officer for an Artisan’s Mining Right in the form set out in the Second Schedule.

4. A person may apply to the Director for a Gemstone Sales Certificate in the form set out in the Third Schedule.

5. The fees set out in the Fourth Schedule shall be paid for licences, permits, an artisan’s mining right or for a gemstone sales certificate.
APPLICATION FORM FOR A MINING RIGHT

THE MINES AND MINERALS ACT, 1995
(PARTS III AND IV)

Type of licence ..............................................................................................................................................

Type(s) of mineral(s) .....................................................................................................................................

Area ......................................................... District ........................................ Province ...........................................

Period ..........................................................................................................................................................

A. PARTICULARS OF APPLICANT (other than company or association)

(1) Full names of applicant
    (a) Surname ........................................... (Maiden Name) .................................................................
    (b) Other names ......................................................................................................................................
    (c) Place and date of birth ....................................................................................................................

(2) Address of applicant
    (a) Residential address .........................................................................................................................

    ..........................................................................................................................................................

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    ..........................................................................................................................................................

    ..........................................................................................................................................................

    .................................................... Telephone No. .................................................................

    (b) Business address ............................................................................................................................

    ..........................................................................................................................................................

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    ..........................................................................................................................................................

    ..........................................................................................................................................................

    ..........................................................................................................................................................

    ..........................................................................................................................................................

    .................................................... Telephone No. .................. Fax No..............................

(3) Identity documents
    (a) NRC No. ..................................... Date/place of issue .................................................................
    (b) Passport No. .................................. Date/place of issue ..............................................................
    (c) Nationality ........................................................................................................................................

B. PARTICULARS OF ORGANISATION (company/association)
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(4) (a) Name of company .................................................................

(b) Location and postal address of company/association ..................................................

............................................. Telephone No. .......................... Fax No. .............................................

Telex No. ............................................. E-mail No. ...........................................................

(c) Company Registration No. .........................................................................................

(d) Address of registered office in Zambia ....................................................................

........................................................                ......................................................

(e) Date of incorporation ............................................................................................... 

(f) Nominal capital .........................................................................................................

(g) Paid up capital .......................................................................................................... 

(h) Full names of

<table>
<thead>
<tr>
<th>Shareholders</th>
<th>Shares held</th>
<th>Nationality</th>
<th>NRC/Passport No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>(i)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(ii)</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>(iii)</td>
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<td></td>
<td></td>
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<td>(iv)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(v)</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(i) Full names of

<table>
<thead>
<tr>
<th>Directors</th>
<th>Nationality</th>
<th>NRC/Passport No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>(i)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(ii)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(iii)</td>
<td></td>
<td></td>
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<tr>
<td>(iv)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(v)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(j) Full name and nationality of Chief Executive ............................................................

(j) Full name and nationality of Company Secretary ....................................................... 

C. PARTICULARS OF FINANCE

(5) Name and address of bankers ....................................................................................... 

............................................. Telephone No. ...........................................................

Fax No. ............................................. Telex No. ............................................................

(6) Financial status
(a) Details of finance available for intended operations (with documentary evidence) .............................................
(b) Details of other assets ........................................................................................................................................

Financial references (other than own bankers)
(i)...................................................................................................................................................................
(ii)....................................................................................................................................................................

(8) Name and address of lawyers ........................................................................................................................
......................................................................................................................................................................
..........................................................................................................................................................................
..........................................................................................................................................................................
..........................................................................................................................................................................
..........................................................................................................................................................................
..........................................................................................................................................................................

D. PARTICULARS OF TECHNICAL COMPETENCE AND EXPERIENCE

(9) Details relevant to prospecting/mining experience (with supporting documentary evidence)...........................
..........................................................................................................................................................................
..........................................................................................................................................................................
..........................................................................................................................................................................
..........................................................................................................................................................................
..........................................................................................................................................................................

(10) Details of previous mining rights held and reports submitted:
.............................................................................................................................................................................

E. PARTICULARS OF OTHER STATUTORY REQUIREMENTS

(11) Details required for application for a prospecting licence:
  (a) Description of the area with a plan (map) in Scale 1:50 000 or 1:250 000
  (b) Programme of operations (annualized, with budget)

(12) Details required for application for a retention licence:
  (a) Feasibility Study
  (b) Environmental Impact Assessment Study.

(13) Details required for application for a large-scale mining licence:
  (a) Description of the area with a plan (map) in Scale 1:50 000 or 1:250 000
  (b) Technological reports (feasibility studies)
      (i) Geology (reserves, etc.)
      (ii) Mining and processing
  (c) Programme of mining operations
  (d) Environmental Plan.
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(14) Details required for application for prospecting permit:
(a) Description of the area with a plan (map) in Scale 1:50 000 or 1:250 000
(b) Programme of operations.

(15) Details required for application for a small-scale mining licence:
(a) Description of the area with a plan (map) in Scale 1:50 000 or 1:250 000
(b) Programme of mining operations.

(16) Details required for application for a gemstone licence:
(a) Description of the area with a plan (map) in Scale 1:50 000 or 1:250 000
(b) Programme of mining operations including forecast for investment and estimated recovery rate of ore and gemstones.

NOTE: Any declaration in this application which is to the knowledge of the maker, false or untrue, shall render this application void ab initio.

I, .............................................................................................................................. do hereby declare that the information given above is true and correct and I make this declaration conscientiously believing the same to be true.

Signature ..............................................................................
(In what capacity?) ..............................................................................
Date: ..........................................................................................

NOTES:
1. Mining Right means a prospecting licence, retention licence, a large-scale mining licence, a prospecting permit, small-scale mining licence and gemstone licence granted under the provisions of Parts III and IV of the Mines and Minerals Act, 1995.
2. Prospecting licence means a licence granted under Part III of the Mines and Minerals Act, 1995. It empowers the holder to carry on prospecting operations in accordance with the programme of operations.
3. Retention licence means a licence granted under the provisions of Part III of the Mines and Minerals Act, 1995. It empowers the holder exclusive rights to retain and develop the deposit in accordance with the studies and assessments.
4. Large-scale Mining Licence means a licence acquired under the provisions of Part III of the Mines and Minerals Act, 1995. It empowers the holder to develop and mine mineral deposits covered by his licence in accordance with the programme of operations.
5. Prospecting Permit means a permit granted under the provisions of Part IV of the Mines and Minerals Act, 1995. It empowers the holder to carry on prospecting operations in accordance with the programme of operations.
6. Small-Scale Mining Licence means a licence acquired under the provisions of Part IV of the Mines and Minerals Act, 1995. It empowers the holder to develop and mine mineral deposits covered by his licence in accordance with the programme of operations.
7. Gemstone Licence means a licence acquired under Part IV of the Mines and Minerals Act, 1995. It empowers the holder to develop and mine mineral deposits covered by his licence in accordance with the programme of operations.

*Where space is not adequate additional information to be submitted separately.

For paragraphs D and E above the information to be submitted in accordance with the provisions of the following sections:
-13 (2) (b) and 14 (3); 19 (2) (a) and (b); 24 (3) (c), (d), (h) and (4); 30 (2) (b) and 31 (3); 35 (3) (a) and (d); and 41 (1) (a) and (c) of the Mines and Minerals Act, 1995.

Three copies to be submitted to: Director, Mines Development Department, P.O. Box 31969, Lusaka.
Application forms can be obtained from: Director, Mines Development Department, P.O. Box 31969, Lusaka.
Price: 100 fee units.
LARGE-SCALE MINING LICENCE

(Section 25 of the Mines and Minerals Act, 1995, No. 31 of 1995)

Applicant’s name: ................................................................................................................................
Address: ...........................................................................................................................................
Prospecting Licence No. ...........................................................................................................................
The mining area shall be the area described in the Schedule and annexed hereto and bordered ................. on
the Plan.
The licence shall relate to the following minerals: ....................................................................................

The licence is granted for a period of .............., commencing on the ..................................................

The programme of mining and development operations shall be as shown in the Appendix hereto.
The following conditions included in Prospecting Licence No. PL .......................................................... shall continue to apply:

Issued at ................................ this ............ day of .................................................................

Director

Endorsement of Registration

This large-scale mining licence has this ................. day of ............................................................. been registered in the Register of Mining Rights.

Director

RENEWALS AND AMENDMENTS

<table>
<thead>
<tr>
<th>Date of Amendment</th>
<th>Details of Renewal or Amendment</th>
<th>Date of Registration and Registration No.</th>
<th>Signature of Director</th>
</tr>
</thead>
<tbody>
<tr>
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</tbody>
</table>
PROSPECTING LICENCE

(Section 14 of the Mines and Minerals Act, 1995, No. 31 of 1995)

Applicant's name: ................................................................................................................................

Address: ................................................................................................................................

The prospecting area shall be the area described in the Schedule annexed hereto and bordered ..................................... on the Plan.

The licence shall relate to the following minerals: ......................................................................................................................

The licence is granted for a period of ..........................................., commencing on the ....................................  day of ....................................... ..............................................................

The programme of prospecting operations shall be as shown in the Appendix hereto.

In addition to the above conditions, the licence shall be subject to the following special conditions-

(here shall be inserted any conditions under section 14 (3) of the Mines and Minerals Act, 1995):

Issued at ........................................ this ............ day of ........................................, ..............................................................

.................................................................................................................................

Director

ENDORSEMENT OF REGISTRATION

This prospecting licence has this ..................... day of ...................., .............................................................. been registered in the Register of Mining Rights.

.................................................................................................................................

Director

RENEWALS AND AMENDMENTS

<table>
<thead>
<tr>
<th>Date of Amendment</th>
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<th>Signature of Director</th>
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</table>
SMALL-SCALE MINING LICENCE

(Section 36 of the Mines and Minerals Act, 1995, No. 31 of 1995)

Applicant's name: ................................................................................................................................

Address: ...........................................................................................................................................

Prospecting Permit No. PP .........................................................................................................................

The mining area shall be the area described in the Schedule and annexed hereto and bordered ............... on
the Plan.

The licence shall relate to the following minerals: ......................................................................................

The licence is granted for a period of ......................, commencing on the ..............................................

The programme of mining and development operations shall be as shown in the Appendix hereto.

The following conditions included in Prospecting Permit No. PP .............................................................

shall continue to apply:

Issued at ................. this ............... day of .................................................................

ENDORSEMENT OF REGISTRATION

This small-scale mining licence has this .................... day of ................, .................................

................................. been registered in the Register of Mining Rights.

RENEWALS AND AMENDMENTS

<table>
<thead>
<tr>
<th>Date of Amendment</th>
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</table>
REPUBLIC OF ZAMBIA

PROSPECTING PERMIT

(Section 31 of the Mines and Minerals Act, 1995, No. 31 of 1995)

Applicant's name: ..............................................................................................................................................

Address: ..............................................................................................................................................................

Prospecting Permit No. PP .................................................................................................................................

The mining area shall be the area described in the Schedule and annexed hereto and bordered ....................., on the Plan.

The licence shall relate to the following minerals: ..............................................................................................

The permit is granted for a period of .................., commencing on the ..........................................................

day of ......................................................................................................................................................

The programme of prospecting operations shall be as shown in the Appendix hereto.

In addition to the above conditions, the permit shall be subject to the following special conditions (here shall be inserted any conditions, imposed under subsection (3) of section 31 of the Mines and Minerals Act, 1995):

Issued at .................... this ............. day of ...................., ..............................................................................

.................................................................................................................................................................

ENDORSEMENT OF REGISTRATION

This prospecting permit has this ...................... day of ............................................................... been registered in the Register of Mining Rights.

.................................................................................................................................................................

Director

RENEWALS AND AMENDMENTS

<table>
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Copyright Ministry of Legal Affairs, Government of the Republic of Zambia
GEMSTONE SALES CERTIFICATE

(Section 99 of the Mines and Minerals Act, 1995, No. 31 of 1995)

(PART XIII)

Applicant's name: ................................................................................................................................

Address: ................................................................................................................................

The certificate is for a period of one year commencing on the ....................................................... day

This certificate is subject to the following conditions:

Issued at .................. this ............ day of ...................., ......................................................

Director
(Section 20 of the Mines and Minerals Act, 1995, No. 31 of 1995)

Applicant's name: ................................................................................................................................

Address: ...........................................................................................................................................

Prospecting Licence No. PL ........................................................................................................................

The mining area shall be the area described in the Schedule and annexed hereto and bordered ................., on
the Plan.

The licence shall relate to the following minerals: .................................................................................
................................................................................................................................

The licence is granted for a period of ......................, commencing on the .................................
...........................................................................

A feasibility study on the market conditions and trends and economic factors as well as the environmental plan for the
recovery shall be as shown in the appendix hereto.

In addition to the above conditions, the licence shall be subject to the following special conditions-(here shall be inserted
any conditions, imposed under subsection (2) of section (20) of the Mines and Minerals Act, 1995):

Issued at ........................... this  .................................... day of  .......................
................................................................................................................

ENDORSEMENT OF REGISTRATION

This Retention licence has this .......................... day of  .........................
been registered in the Register of Mining Rights.

................................................................................................................

RENEWALS AND AMENDMENTS

<table>
<thead>
<tr>
<th>Date of Amendment</th>
<th>Details of Renewal or Amendment</th>
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Copyright Ministry of Legal Affairs, Government of the Republic of Zambia
ARTISAN’S MINING RIGHT

(Section 64 of the Mines and Minerals Act, 1995, No. 31 of 1995)

Applicant's name: .................................................................
Address: ...........................................................................................................
..............................................................................................................................
..............................................................................................................................
The artisan's mining right area shall be the area described in the Schedule and annexed hereto and bordered
................., on the Plan.
The artisan's mining right shall relate to the minerals: ...............................................

The artisan's mining right is granted for a period of two (2) years commencing on the ..................

Issued at .................. this ............ day of .................., ...........................................

This artisan's mining right has this .................. day of .................., ...........................................
been registered in the Register of Mining Rights.

This artisan's mining right has been registered in the Register of Mining Rights.

Authorised Officer

Authorised Officer

Copyright Ministry of Legal Affairs, Government of the Republic of Zambia
GEMSTONE LICENCE

(Section 42 of the Mines and Minerals Act, 1995, Act No. 31 of 1995)

Applicant's name: ................................................................................................................................

Address: ................................................................................................................................

The prospecting and mining area shall be the area described in the Schedule and annexed hereto and bordered
on the Plan.

The licence shall relate to the following minerals:

The licence is granted for a period of ................................................................., commencing on
the .................................... day of .................................................................

The programme of prospecting and mining operations shall be as shown in Appendix hereto.

In addition to the above conditions, the licence shall be subject to the following special conditions-(here shall be inserted
any conditions imposed under subsection (2) of section 42 of the Mines and Minerals Act, 1995):

Issued at ........................... this .................. day of ............................,

ENDORSEMENT OF REGISTRATION

This gemstone licence has this .................. day of .................. been
registered in the Register of Mining Rights.

Date of
Amendment

Details of Amendment

Date of
Registration and
Registration No.

Signature of
Director

<table>
<thead>
<tr>
<th>Date of Amendment</th>
<th>Details of Amendment</th>
<th>Date of Registration and Registration No.</th>
<th>Signature of Director</th>
</tr>
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</table>
APPLICATION FORM FOR AN ARTISAN'S MINING RIGHT

THE MINES AND MINERALS ACT, 1995
(PARTS VII)
The Laws of Zambia

I. DETAILS OF APPLICANT (complete A or B, whichever is applicable)

A. Application by an individual

Name ..............................................................................................................................................
Chief ...........................................................................................................................................
District ........................................................................................................................................
Postal address ................................................................................................................................
Residential address ......................................................................................................................
Telephone No. ................................................. Fax No. .................................................................
Citizenship .......................................................... NRC/Passport No. ..............................................

B. Application by a community

(i) Where community is not a co-operative:

Name of representative ....................................................................................................................
Name of village .................................................................................................................................
Chief .............................................................................................................................................
District ........................................................................................................................................
Postal address ................................................................................................................................

Name of members | NRC No. | Residential address
---|---|---
........................................................................................................................................
........................................................................................................................................
........................................................................................................................................
........................................................................................................................................
........................................................................................................................................
........................................................................................................................................
........................................................................................................................................
........................................................................................................................................
........................................................................................................................................

(use separate sheet if necessary)

(ii) Where community is a co-operative:

(a) Name and address of the co-operative ....................................................................................
....................................................................................................................................................
Telephone No. ............................................................................................................................... 
(b) Registration Certificate No. ................................................. Fax No. ..............................................
(c) Date and place of registration .................................................................................................
(d) Share capital (nominal and paid-up) ........................................................................................
(e) Name of village (Place of mining activities) ..........................................................................
(f) Chief ......................................................................................................................................
District ......................................................................................................................................

(f) Full names of Members | NRC No./Passport No. | Residential address
---|---|---
(i) ..........................................................................................................................................
(ii) ..........................................................................................................................................
(iii) ..........................................................................................................................................

(g) Full names of Chairman .........................................................................................................
(h) Full names of secretary ...........................................................................................................

II. PARTICULARS OF APPLICATION

(a) Area required .........................................................................................................................
Hectares (not exceeding five Hectares)
(b) Location of area ....................................................................................................................
(c) Mineral(s) .............................................................................................................................

III. BRIEF TECHNOLOGICAL INFORMATION ON MINING AND PROCESSING

....................................................................................................................................................
....................................................................................................................................................
....................................................................................................................................................
....................................................................................................................................................
....................................................................................................................................................
....................................................................................................................................................
....................................................................................................................................................

(if space not enough, use separate sheet)

Copyright Ministry of Legal Affairs, Government of the Republic of Zambia
APPLICATION FORM FOR A GEMSTONE SALES CERTIFICATE

THE MINES AND MINERALS ACT, 1995
(PART XIII)
The Laws of Zambia

Type(s) of gemstones: ..............................................................................................................................................................................

A. PARTICULARS OF APPLICANT (other than company or association)

1. Full names of applicant
   (a) Surname ........................................ (maiden name) .........................................................................................................................
   (b) Other names ................................................................................................................................................................................
   (c) Place and date of birth. ....................................................................................................................................................................

2. Address of applicant
   (a) Residential address ........................................................................................................................................................................
       .................................................................................................................................................................................................
   (b) Business address .........................................................................................................................................................................
       .................................................................................................................................................................................................
       .................................................................................................................................................................................................
       .................................................................................................................................................................................................
       .................................................................................................................................................................................................
       .................................................................................................................................................................................................
       .................................................................................................................................................................................................

3. Identity documents
   (a) NRC No. ........................................ Date/place of issue .........................................................................................................
       .................................................................................................................................................................................................
   (b) Passport No. ........................................ Date/place of issue .....................................................................................................
       .................................................................................................................................................................................................
   (c) Nationality .....................................................................................................................................................................................

4. Situation of registered office. ...........................................................................................................................................................

B. PARTICULARS OF ORGANISATION (company/association)

4. (a) Name of company ..........................................................................................................................................................................

(b) Location and postal address of company/association ....................................................................................................................
    .................................................................................................................................................................................................
    .................................................................................................................................................................................................
    .................................................................................................................................................................................................
    .................................................................................................................................................................................................

(c) Company Registration No. ..............................................................................................................................................................

(d) Address of registered office in Zambia ........................................................................................................................................

(e) Date of incorporation .......................................................................................................................................................................  

(f) Nominal capital .....................................................................................................................................................................................

(g) Paid up capital ....................................................................................................................................................................................

(h) Full names of
    Shareholders | Shares held | Nationality | NRC/Passport No.
(i) ......................... | ................. | ................. | .........................
(ii) ......................... | ................. | ................. | .........................
(iii) ......................... | ................. | ................. | .........................
(iv) ......................... | ................. | ................. | .........................
(v) ......................... | ................. | ................. | .........................

(i) Full names of Directors | Nationality | NRC/Passport No.
(i) ......................... | ................. | .........................
(ii) ......................... | ................. | .........................
(iii) ......................... | ................. | .........................
(iv) ......................... | ................. | .........................
(v) ......................... | ................. | .........................

(j) Full name and nationality of Chief Executive ..............................................................................................................................

(k) Full name and nationality of Company Secretary .........................................................................................................................
NOTE: Any declaration in this application which is to the knowledge of the maker, false or untrue, shall render this application void ab initio.

I, .............................................................................................................................. do hereby declare that the information given above is true and correct and I make this declaration conscientiously believing the same to be true.

Signature .................................................................................................
(In what capacity?) ............................................................................
Date: .................................................................................................

NOTES:

The gemstone sales certificate granted under the provisions of Part XIII of the Mines and Minerals Act, 1995, empowers the holder to carry on business of trading in gemstones.

Three copies to be submitted to: Director, Mines Development Department, P.O. Box 31969, Lusaka.

Application forms can be obtained from: Director, Mines Development Department, P.O. Box 31969, Lusaka.

Price: 100 fee units.
## Type of licence

<table>
<thead>
<tr>
<th>Fee units</th>
<th></th>
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<tbody>
<tr>
<td>LARGE SCALE MINING OPERATIONS</td>
<td></td>
</tr>
</tbody>
</table>

1. **Prospecting licence**
   - (a) basic licence fee, 500
   - (b) annual area charges per square kilometre, 10

2. **Retention licence**
   - (a) basic licence fee, 1,000
   - (b) annual area charges per square kilometre, 100

3. **Mining licence**
   - (a) basic licence fee, 1,000
   - (b) annual area charges per square kilometre, 200
4. **Prospecting permit**
   
   (a) basic licence fee, 250
   
   (b) annual area charges per hectare, 5

5. **Small scale mining licence**
   
   (a) basic licence fee, 250
   
   (b) annual area charges per hectare, 10
   
   (c) tonnage fees for building materials, 2
   
   (d) annual rent on any mineral other than building material sold, percentum of mineral sold, 5

6. **Gemstone licence**
   
   (a) basic licence fee, 250
   
   (b) annual rent and deemed turnover shall be as set out in the table below:

<table>
<thead>
<tr>
<th>Year of duration of Right</th>
<th>Rent per hectare (fee units)</th>
<th>Deemed turnover per hectare (fee units)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Year 1</td>
<td>nil</td>
<td>nil</td>
</tr>
<tr>
<td>Years 2-4</td>
<td>100</td>
<td>2000</td>
</tr>
<tr>
<td>Years 5-7</td>
<td>150</td>
<td>3000</td>
</tr>
<tr>
<td>Year 8 and subsequent years</td>
<td>200</td>
<td>4000</td>
</tr>
</tbody>
</table>

7. **Artisan’s mining rights**
   
   (a) basic licence fee, 100
   
   (b) annual area charges per hectare, 100
   
   (c) tonnage fees for building materials, 2

8. **Reconnaissance Permit**, 250

9. **Gemstones Sales Certificate**, 1,000

10. **Gold Dealer’s Licence**, 1,000

11. (a) survey charges per kilometer, 100
   
   (b) other related charges for transport, subsistence, etc., shall be determined by the Director in accordance with the scale approved from time to time by the Government
1 (Popup - Popup)